

BLOOD IN THE VALLEY

KASHMIR

Behind the propaganda curtain



Protest demonstration against custodial killings in Kashmir



Protest demonstration against atrocities by Indian armed forces

Above two photographs courtesy: Human Rights Division of the Institute of Kashmir Studies, Srinagar: 'Tearful Summer in Kashmir', '94.

A report to the people of India
on Kashmir by the joint fact finding
committee of organisations for
democratic rights and civil liberties.

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I Preface

“Kashmir is much more than a dispute over real estate, a matter of national prestige, or a threat to Indian secularism. If the nation continues to remain desensitised to the human tragedy that is Kashmir,the very existence of India as a civilised entity will be gravely threatened.”

Balraj Puri

Kashmir : Towards Insurgency.

For the last five years, Indians have been hearing about a ‘Kashmir Problem’. The way the problem is explained to us, it appears that the Kashmiris are the problem. Perhaps the Kashmiris too have a problem with India. But we are told only of the problem that India has with the Kashmiris.

For one thing, we are told, they are unreasonable. They voluntarily accepted almost forty years ago, through a resolution passed by their Constituent Assembly, that their land’s accession to India was final and irrevocable, but they now want to revoke it, with various specious arguments about broken promises and breach of faith. Secondly, they are treacherous. Having given the impression all these years that they are quiet, docile, non-violent followers of Sheikh Nuruddin Noorani, who said six hundred years ago that he had broken his sword and fashioned a sickle, they have suddenly taken out their guns. Thirdly, they are deceitful. Having disappointed Pakistan in 1947 and again in 1965, and having voted all these years for whoever India told them to vote for, they are now suddenly clamouring for Nizam-e-Mustafa, the Kingdom of the Faithful.

There is evidently something wrong with such an unreasonable, treacherous, deceitful people.

Or perhaps it is with us that there is something wrong?

We Indians have never questioned what our rulers chose to tell us about Jammu and Kashmir. When we were told that Sheikh Abdullah was the undisputed leader of Kashmir, we accepted him as the undisputed leader of Kashmir. When we were told that he was India’s ‘best bet’ in the valley, as if he were a race horse and India : punter, we agreed not to question his authoritarian ways. When we were later told that he was a traitor, an anti-national conspirator, we accepted dutifully that he was a traitor and an anti-national conspirator. A more discerning public opinion would have recognised in him (whatever his faults) the most ill-treated political dissident of this land, but India’s proudly anti-establishment intellectuals have never thought

so. When we were told that elections were being held democratically in that State, we believed that they were being democratically held, though we saw with our very eyes that one government after the other was removed unceremoniously and replaced with Delhi's henchmen. When Delhi tells us that there is no problem now in Kashmir except that Pakistan is training fundamentalist muslims to destabilise secular, democratic India, we believe that it is so, and join the clamour for teaching Pakistan a lesson. When we are assured that the brave jawans of the Indian security forces are doing a difficult job in Kashmir and that we should not believe the motivated campaign about violation of human rights, we are prepared to shut our eyes to what we know to be the truth.

A minimum of 20,000 people have been killed in the hapless state in the last 5 years. P.V. Narasimha Rao, our Prime Minister, seems to believe that if another 20,000 are killed the problem will be solved. This is what men in uniform call a war of attrition.

The hope that has motivated us in publishing this report is that at least now the responsible sections of Indian public opinion will wake up and stop swallowing all that Delhi dishes out. What has happened in Jammu and Kashmir during the last forty-odd years is unpardonable fraud followed by inhuman crime, and the democratic public opinion of this country must at least now cease being a party to this obnoxious history. A minimum of 20,000 people have been killed in the hapless State in the last 5 years. P.V. Narasimha Rao, our Prime Minister, seems to believe that if another 20,000 are killed the problem will be solved. This is what men in uniform call a war of attrition. If we do not want any more blood on our conscience, let us wake up at least now and put our foot down collectively. An average of at least three hundred persons are dying in the State each month now. And the Government of India's strategy is that if this goes on for some more time, the people of the state will be driven to surrender out of sheer exhaustion. The issue will thus be resolved neither legally nor morally but by the barbarous means of bleeding it to death. We Indians, in spite of our rich democratic traditions have been an unwitting party to this crime all these days. We must not continue to be so.

But if this hope is to be realised, an extensive campaign of education is needed. A campaign to educate the people of India that the 'Kashmir Problem' is primarily a problem for the people of Jammu and Kashmir, and only secondarily, if at all, a problem for India. That it is a problem of what the history of the subcontinent, dominated by India and Pakistan, has done to the aspiration of the people of Jammu and Kashmir to freely determine their own fate. That the way the Indian rulers have settled the fate of the people of J&K is a shameful saga of deceit, manipulation,

lawlessness and coercion.

That for India as well as Pakistan, Kashmir is not people but the prestige of power and a piece of property. That the loudly repeated chant of the Indian rulers about the finality of J&K's incorporation in India hides the unedifying fact that the Indian claim has no morality to it and very, very thin legality. That Pakistan is able to train and arm Kashmiri militants only because Kashmiris are willing to be trained and armed, just as Bengalis of East Bengal and Tamils of Jaffna were willing to be trained and armed by India. That what the Indian security forces are doing in Jammu & Kashmir in the name of fighting militancy is the bloodiest operation of murder, torture, rape and arson that this country has seen in the last four and half decades.

We are not being irresponsible in saying all this. Whenever there is talk of Kashmir, all Indians are required to be patriotic. If the term patriotism has any democratic content then to be patriotic vis-a-vis Kashmir is not to support but to strongly oppose the way the Government of India is presenting the issue, and the way it is handling it.

It is this understanding that inspired eight civil liberties and democratic rights organisations working in six different States of India to come together to organise a joint fact finding visit to J&K. The effort was in part an exercise in self-criticism, for the civil liberties and democratic rights movement of India, taken as a whole, has not really discharged its full obligation in the matter of the 'Kashmir Problem'. The few exceptions include the Delhi based Committee for Initiative on Kashmir, the People's Union for Civil Liberties (PUCL) and the Citizens for Democracy (CFD). Four of our organisations had also brought out a report about two years ago. But it is the Kashmiri human rights groups that have been collecting information and campaigning against the armed forces' atrocities as well as the distortion of the political and historical issues involved. International human rights organisations such as Amnesty International (AI) and US based organisations such as Asia Watch have also published detailed reports on the atrocities of the armed forces. That what the Indian security forces are doing in Jammu & Kashmir in the name of fighting militancy is the bloodiest operation of murder, torture, rape and arson that this country has seen in the last four and half decades.

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But while the effort of the western organisations is valuable, and the effort of the Kashmiri human rights groups is invaluable, there is one task that only Indian democratic rights organisations and democratic movements functioning outside Kashmir can undertake: that is to educate the people of this country to demand that the Indian rulers concede the rights of the Kashmiris: that is to live up to the high ideals and values that the people of this country are heir to, and that have been proudly proclaimed by our rulers as their 'ethos' ever since the days of Nehru. This is a task that is yet to be attempted on any significant scale, and yet the urgency of this task cannot be overstated.

With this idea in mind a preliminary meeting was held at Bombay on 18 June, 1995, attended by the Association for the Protection of Democratic Rights (APDR, West Bengal), Committee for the Protection of Democratic Rights (CPDR, Bombay), Peoples Union for Democratic Rights (PUDR, Delhi), and Andhra Pradesh Civil Liberties Committee (APCLC). This meeting resulted in invitations being sent to all active civil liberties and democratic rights organisations in the country, to participate in a joint fact finding team to tour Jammu & Kashmir. Ultimately eight organisations gave their consent, and a 13 member team left for Jammu & Kashmir from Delhi on the night of 30 July, 1995. The organisations are: Association for Protection of Democratic Rights (APDR) and Asansol Civil Rights Association (ACRA), from West Bengal; Committee for Protection of Democratic Rights (CPDR) and Lokshahi Hakk Sanghatana (LHS) from Maharashtra; Andhra Pradesh Civil Liberties Committee (APCLC); Manab Adhikar Sangram Samithi (MASS) from Assam; Peoples Democratic Forum (PDF) from Karnataka and Association for Democratic Rights (AFDR) from Punjab.

The chapters that follow constitute the report compiled as a sequel to our visit which lasted till 7 August, 1995. We visited Jammu, Srinagar, Baranulla, Anantnag and Rajouri and spoke to scores of people: political activists, lawyers, journalists, human rights activists, academics, the kith and kin of victims and eye witnesses to the atrocities of armed forces, the Pandit refugees, and the common people in whose name everything is being done. As our visit coincided with the Amarnath Yatra, we also had a chance to observe at first hand how the army and the administration react to such situations in J&K.

As this report is intended to be translated into Indian languages and widely publicised, we are incorporating in it, in a summarised form, the information that has been published in earlier reports of Indian and Western human rights organisations in the last 5 years. We have also dealt with the political and historical background in some detail. We are aware that this history is not free of controversy. But we have nevertheless ventured to provide a brief picture from a democratic rights perspective. This perspective insists that nothing can be superior to the basic rights of the people involved in any problem, neither national interest nor security of the state nor any kind of prestige. This understanding is not free from complexities but those must be faced and resolved.

II A FEW WORD PICTURES

When our team landed in Jammu on 31 July, the city was full of the army, the paramilitary and the ugly Punjab Commandos who are dressed to look like death. The reason was that the Amarnath pilgrims were reaching the city, and they were to be protected from attacks by the Pakistan based fundamentalist militant organisation Harqat-ul-Ansar that had announced a ban on the Yatra. Nobody in his right senses would support the ban on the civic freedom of the Amarnath devotees, and all responsible Kashmiri organisations had dissociated themselves from the ban. But what was remarkable was the way the State's duty of protecting the Yatris was turned into an assertion of the might and prestige of the Indian army, aimed at the people of the Kashmir valley, unfairly setup as a surrogate of the invisible Harqat-ul-Ansar.

We will give more details about this attitude of the administration's in the report that follows, but our team had to encounter its consequences at the very beginning of our tour. In the administration's zeal to ensure that each yatri reached Amarnath safe, all the public transport available at Jammu was routed to Pahalgam, the last point upto which motor transport is possible on the Amarnath route. It was therefore difficult to go to the State Capital (Srinagar) from the Winter Capital (Jammu) during the first few days of August, even after the monsoon-induced road blocks enroute were cleared.

As practically the only people who go to Srinagar these days are the (overwhelmingly Muslim) residents of the Kashmir valley, the administration was quite indifferent to how and whether they would ever get there. That this reinforces the feeling of the Kashmiris that they are unwanted aliens in 'India' ought to worry the administration, but it evidently could not care less. When we went to the Bus stand near the Tourist Reception Centre at Jammu in quest of a bus to Srinagar, we found about two dozen valley-bound passengers huddled in a group, wondering when they would find a bus to take them to what was after all the capital of the state. All the while bus after bus was moving into the departure line full of Pahalgam-bound pilgrims shouting slogans hailing Bholenath. Gun-toting army men along with transport officials were diligently seeing to it that all the Yatris got into buses and the buses formed a convoy adequately covered by protective army escort. The Srinagar bound passengers were happy that our group of thirteen wanted to go to Srinagar too. For they were 26, and had been told that if there were 40 passengers a bus to Srinagar might be arranged. And so a request was made and a bus was allotted for us. But as the tickets were being issued to us at the booking counter the clerk was twice told to stop by a transport official, for this bus too might have to go to Pahalgam. It required some pleading and

persuasion to at least let this one bus go to Srinagar.



There was one army or paramilitary checkpoint every fifty yards on the way from Jammu to Srinagar. We were told by our co-passengers to say that ours was a Pahalgam-bound bus, for any Srinagar-bound bus would be stopped and searched for a long time, and may even be forcibly diverted to Pahalgam. We have seen later, in the valley, that buses are stopped for hours together, in the name of being searched. As a matter of fact the search is not very thorough (not once was our luggage opened) but it is done at a leisurely pace and in an insulting manner as if the purpose is not to uncover hidden arms or ammunition but only to harass and humiliate the passengers.

By noon our bus reached Ramban on the banks of the deep flowing Chenab river. There the army stopped us and told us that the day's Amarnath convoy had left, and we would have to spend the rest of that day there and leave for Pahalgam the next day, for no vehicle of Amarnath Yattris would be allowed to go without army escort. It then became necessary to explain that our bus was going to Srinagar and therefore could be allowed to go without escort. One of our co-passengers, a Kashmiri Muslim, said to us in a matter of fact tone, 'Why don't you people explain to the army - your lives are more valuable than ours.' What he meant was that it was the presence of our team - evidently a group of non-Kashmiris - that made the army suspect that the bus may be escort-worthy. If it had consisted only of Kashmiri Muslims, the army would not have thought of escorting it, though the route to Pahalgam goes up to 60 kms this side of Srinagar before taking a diversion, and in any random grenade attack on suspected Amarnath-bound traffic by militants, the assailants would not be able to distinguish between buses according to the ethnicity, the community and the destination of the bus. The simple comment told us much about how alienated the Kashmiris feel.

Soon a CRPF official came in a jeep to enquire whether ours was a bus of Amarnath pilgrims. One of our co-passengers tried to clarify that it was not. 'These people' he said, pointing to our team, 'are not going to Amarnath, and all the rest of us in the bus are Kashmiris.' His meaning was quite simple: the only ones in the bus who could be tourists were not going to Amarnath, and the rest were not tourists. This innocent clarification enraged the CRPF officer. 'Why do you say you are Kashmiri?' he shouted at our co-passenger. 'Say you are Indian. Everybody is Indian. There is no Punjabi or Kashmiri.' This irrelevant outburst stunned our fellow passenger into silence.



Srinagar is overwhelmingly in the grip of Indian army occupation. Army presence is ubiquitous and intimidating: besides bunkers every 50 yards or so the streets are patrolled by Armoured Personnel Carriers. Hotels, cinema halls as well as several public buildings (such as that of the main bus terminal) has been converted into dormitories for the armed forces. The local cricket stadium is now the head quarters of the CRPF. Vacant Kashmiri pandit houses are being used as "interrogation centres" as well as living quarters by the armed forces.

A veritable civic squeeze is being faced by the populace. Electricity supply is intermittent : most private phones are out of order. The only public telephones for the entire city were in the Central Telegraphic Office (two lines only) and the main bus terminal (one line only).

Four members of our team were at Baramulla, a district headquarters town, towards the Uri border, on 5 August. We went to the District and Session Court. The front yard of the Court building was blocked by four army trucks, full of heavily armed soldiers, with a light machine gun mounted on each truck. One had to squeeze past the trucks to enter the court hall.

At one side of the court premises a volleyball net was provided for the army jawans - symbolic of the cock-a-snook attitude of the administration towards the rule of law.

The court was on strike that day. The advocates, the clerical staff and even the judiciary were on strike. We enquired the reason and were told of an incident that had happened two days prior to that. For confirmation we were asked to meet the District and Sessions Judge Mr. Abdur Rehman Butt in his chambers. Mr. Butt turned out to be an elderly gentleman. His eyes were red with humiliation and anger as he told us how he had been insulted by the army two evenings before.

He was going to Srinagar, 60 km away, in his official car accompanied by a sub-judge Mr. Abdul Wahid. At the outskirts of Baramulla town the car was stopped by the army picket. They told him that the car bearing this number was, according to intelligence provided by the local police, being used by militants in Srinagar. They asked him to get out of the car and hand over the keys to them. Mr. Butt protested and said it must be a mistake for he was the District Judge of Baramulla and this was his official car. But his protests were of no avail. He had to stand by the road side for two and half hours before an intelligence police official came there and told the army personnel that they had caught hold of the wrong car, for this was not the number he had given them. They bickered for a while and then the District Judge was allowed to take his car, without so much as an apology from the army men who had stopped him. The question Mr. Abdur Rehman Butt asks - and the Baramulla Bar asks - is whether a District Judge would be treated so casually in any State in India even if there were

credible information that his car was being used for illicit purposes?



Three members of our team were at Anantnag, another district headquarters town, on the same day. We were told of an incident that had happened in the town on the previous day. An armed militant travelling in an autorickshaw had pointed a gun at a BSF bunker in the Lal Chowk area of the town. The BSF man did not come out to challenge them. But some time later the BSF jawans got into action. They rounded up all the autorickshaw drivers they could get hold of and thrashed them. They also thrashed shopkeepers who had seen the incident, accusing them of having allowed the militant to flee.

As we were leaving Anantnag for Srinagar, our taxi was stopped outside the town and told that it could not proceed any further as there was an army operation against militants in progress. As our vehicle negotiated a reverse turn, we saw a tell-tale sign of the nature of the operation. Some army men in front of us had trained their guns on the first floor window of a house by the road side. It was a chilling sight. They were evidently waiting for some sign of life inside to open fire. How could they ever know whom their bullets would hit?



Three other members of our team went to interview the kith and kin of some army victims in Hari Singh High Street in the heart of Srinagar the same morning. On reaching there we found that there was a "crackdown" in progress in the lane behind the houses where we were to talk to people. The BSF had cordoned off those houses, had asked all the men to come out, and was searching the houses one by one. But the people with whom we were to talk told us that nothing would happen in their lane, and coolly kept narrating various incidents of army atrocities, while a cordon and search operation was in progress right behind their backs.

We had heard and recorded six macabre stories of killing by the armed forces when there was commotion and gun fire nearby. A grenade had been thrown by hidden militants at a BSF vehicle just as the crackdown was lifted and the BSF men had begun to move. Soon the jawans started firing, not in the direction from where the grenade was thrown but in an entirely different direction. Fortunately no civilian was killed though some were injured. We were surprised to learn from the daily newspaper Kashmir Times the next day that the BSF had credited itself with restraint and had told the press that 'they had not retaliated'.



On the way to Rajouri town our team's vehicle was stopped at an army checkpost at Sunderbani (one among several such checkposts). After enquiring our identity a jawan signalled us to move on adding "you all have come from distant places in India. Hence, I am allowing you all to go so easily. Had you all been locals, you all would have been stripped naked and searched."



Without comments

"Human Rights Violated Just In front of Administrative Headquarters of JK Govt.

It was in the afternoon of Sept. 7th 3-40 p.m. a grenade was hurled on a bunker installed outside the Fire Services Headquarters Batamloo. It is worthwhile to mention that the incident took place just in front of the administrative headquarters of J&K Govt. (Civil Sectt.). It exploded outside the bunker. In this explosion it is believed that few Border Security Force personnel who happened to be outside the bunker at the time of explosion, received minor injuries by splinters. The passer byes, ran helter shelter. Shop-keepers pulled down the shutters of their shops and got holed-up in near by lanes and shops. For five to ten minutes after the explosion an uneasy calm prevailed. It is not certain whether it was on the message of the attacked BSF personnel of the bunker or routinely 2 armed vehicles from east and the north came on the spot. These armed vehicles carrying security forces are patrolling the city every day. The fire was opened by these Security Forces patrolling in the armed Vehicle. Then hell was let loose. The firing continued from 2 armed vehicles which soon disappeared from the scene and from the Bunker, which continued intermediately for more than hour.

The Security Forces fired at shops, houses, vehicles, pedestrians and whatever came in their way. BSF personnel posted at the bunker went on rampage. They indulged in vandalism, the shops of all kinds, are reported to have been looted. Almost 15 shop-keepers stated that in addition to cash, goods were stolen. The Glass-panes having holes due to bullet-shots were broken in order to wash-off evidence.

As per the statement of Mohd. Altaf Bhat S'o Ab. Gaffar R/O Barapather Batamloo, a vegetable vendor, and Gh. Rasool Bhat S'o Gh. Nabi Bhat R/o Kash Mohalla-Batamloo, a tea vendor, after explosion they left their places and sought shelter in the Golden Transport Agency, which they found was a suitable place to protection. From there they saw that a car bearing number JKE 580, in which Mr. Ahmaddullah Reshi, 45 S'o Gh. Nabi Reshi, General Manager R/o 328 Narsingh-Garh, Srinagar was stopped by the Security Forces. The General Manager was told by the Security personnel to open the Diky. The Diky was opened by the Gen. Manager, nothing was there. His identity was checked and then one Security personnel shot him from the point blank range in his head. He fell down, and died on the road side besides his car with the pool of blood on the road.

Another person Afroz Khan, 35, S'o Afzal Khan, C'o Waseem Provision Store, Panwala, after the explosion pulled down the shutter of his shop. He sought protection in a nearby shop. The owner of that shop had sought refuge in the Golden Transport Co. where the majority of shop-keepers and passer byes had sought protection. BSF personnel got Afroz Khan who was unable to hide himself and a full burst of bullets was aimed at him. He had instant death. Some other witness namely Mr. Hamid Bhat, S'o Ab. Gaffar Bhat R/o Kolipora Khanyar, Mohd. Amin Khan S'o Mohd. Sultan Khan R/o Khanyar, Mohd. Nusrat Ahmad Beig R/o Chutteer-hama all passer byes stated that the commanding officer of the said contingent (81 BN, BSF) Mr. Joshi was present on spot and was inciting his Jawans by shouting 'Saloon Ko Maro'. The dead bodies were finally handed-over to Police Control Room who in turn handed-over them to their relatives.

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III KASHMIR AND KASHMIRIYAT

*“Among brothers of the same parents
why did you create a barrier?
Muslims and Hindus are one
When will God be kind to his servants?”*

Sheikh Nuruddin

The current armed militancy in the Kashmir valley is generally dated back to 1989. Mass agitation over deeply felt issues of regional, religious and cultural identity is not new to the valley, but the systematic use of arms is new. Indeed until 1989 the Kashmiris were regarded as timid and docile people. There were some incidents of bomb throwing and firing in 1988, and the first batch of armed militants is said to have reached the Kashmir valley that year. But it was the killing of the National Conference leader Mohammed Yusuf Halwai on 21 August, 1989, followed by that of BJP leader Tikalal Tiploo on 14 Sept and former District Judge Neelkanth Ganjoo on 4 November that marked the advent of armed militancy in the valley. But the underlying problem is itself recognised as having started with the accession of the Princely state of Jammu & Kashmir way back in 1947. The conditions under which the accession to India took place, the terms of accession, the conditional nature of the accession predicated on popular validation, the incorporation of article 370 guaranteeing special status or limited autonomy for J&K in the Indian constitution, the reference to the United Nations (UN) and the many UN resolutions concerning plebiscite, and all that followed thereafter constitutes the political background to the present situation.

We shall look into this background in the following chapters, but it must be realised that for the people of the Kashmir valley, the story goes back by almost another four hundred years.

Four centuries of subjugation

The Kashmir valley is the most densely populated and fertile part of the erstwhile princely state of Jammu and Kashmir. It is a culturally, ethnically and linguistically homogenous region, more than 90% Muslim in terms of religion. It has been

politically the most vocal and active part of Jammu & Kashmir for more than sixty years. And it is today the theatre of a militant struggle for self-determination. It is a complex struggle, with many dimensions to it, but central to it is a certain historico-cultural identity that is described as Kashmiriyat. The 'Kashmir Problem' cannot be understood without understanding the contours of this Kashmiri identity. Even the variety of Islam most Kashmiris practice is the specifically Kashmiri Islam of the local Muslim Rishis, the most eminent of whom was Sheikh Nuruddin whose shrine at Chrar-e-Sharief was destroyed on the night of 10 May 1995.

Kashmiri nationalism does not divide its history into the Hindu and Muslim periods, but into the Kashmiri and foreign periods, the latter of which began with emperor Akbar.

The Jammu Kashmir Liberation Front (JKLF) which spearheaded the first phase of the armed militancy, explicitly swears by Kashmiriyat as the fulcrum of its world view. It is said that today the Hizbul Mujahideen (HM), which has a more pronouncedly orthodox Islamic worldview, is the largest militant group (in terms of armed cadre). But it is generally believed that the mass of the Kashmiris are still more moved by the call of the Kashmiri identity than the Two Nation theory or the ideology of pan-Islamism. Undeniably the specifically Kashmiri identity has emotional appeal to the people of Kashmir and forms a substantive core of their aspiration for independence. This comes through even in the most casual conversation with Kashmiris about the present crisis. Sheikh Abdullah, whose immense popularity in the valley during his heyday has never been disputed, was an ardent believer in the Kashmiri ethos till the end of his life, and a confirmed opponent of the idea of an absolute Hindu-Muslim divide transcending ethnicity and economic interests.

For such Kashmiri nationalists, the subjugation of Kashmir began, not in 1947 when the last Dogra ruler acceded to India under the pressure of circumstances, nor when the Dogra ruler Gulab Singh of Jammu first acquired Kashmir from the British in 1846, but way back in 1586 when Emperor Akbar extended his domain to the Kashmir valley. Contrary to what the Indian people have been given to believe about the communal outlook of Kashmiri Muslims, Kashmiri nationalism which is the predominant political emotion in the valley, does not divide its history into the Hindu and Muslim periods, as both Hindu and Muslim communalists in the subcontinent have always done, but into the Kashmiri and foreign periods, the latter of which began with emperor Akbar and continued through the Afghan, Sikh and Dogra rulers down to the "secular" government of India.

Nuruddin : Alamdar - e - Kashmir

More than 90% of Kashmiris are Muslims. The Islam practised in Kashmir is Islam as propagated by the local Sufi order of the Silsila-e- Rishiyan, the Muslim saints of Kashmir, whose progenitor was Sheikh Nuruddin (1379 - 1442), also known as Nuruddin Rishi or Nund Rishi, revered also by the microscopic Hindu community of Kashmir as a great saint.

It is argued by historians that the Sufis, with their accent on devotion and mysticism and their social values of humanism and tolerance did more to propagate Islam in the subcontinent than the authority and patronage of Muslim rulers. But this seems to have been much more true of Kashmir than elsewhere. It was a long period of gradual acculturation rather than proselytisation, according to historians, that converted the valley into an overwhelmingly Muslim society.

Kashmir appears to have abounded in ascetics of Saivite Hindu faith and Mahayana Buddhism. The Muslim Rishis carried on this tradition within the frame work of the ideas of the Quran. More orthodox Muslims later had trouble justifying their celibacy and vegetarianism, which are regarded as practices contrary to Islam. Nevertheless it is through this order of unorthodox Muslim ascetics that Islam spread in the valley. Though they called themselves Rishis and their legends are recorded as Rishinamas, they were perhaps more akin in their social role to Buddhist monks than to Hindu tapasvis, for they combined mystic self-realisation with social concern and the propagation of Truth. Abul Fazl, who came to Kashmir at the time of Akbar, found about two thousand Rishis in the valley. Of them he said in his Ain-e-Akbari that "the most respectable class in this country is that of the Rishis who, notwithstanding their freedom from the bonds of tradition and custom, are the true worshippers of God. They do not loose the tongue of calumny against those of a different faith, nor do they beg or importune. They employ themselves in planting trees, and are generally a source of benefit to the people".

As we said above the existence of such ascetics popularising religion at a more humane level is not unique to Kashmir, whether in the Hindu tradition or the Muslim tradition. The religion they propagated has usually been highly critical of the high priests of orthodoxy, as Sheikh Nuruddin was of the Ulemas, and his predecessor, the Saivite mystic Lalla Maji, was of the Brahmins. As G R Malik, Professor of English at Kashmir University says "*Sheikh Nuruddin, also known as Nund Rishi, is one of those distinguished figures of our history who have exercised the most tremendous influence on the life and culture of Kashmir. It is certainly no exaggeration to say that no one else has so far gained such a universal popularity with the Kashmiri people as to become a household name. His name is writ large on every inch of the soil of Kashmir. For Kashmiris he is the Alamdar-e-Kashmir, the standard bearer*

of Kashmir." Indians should realise that the shrine at Charar-e-Sharief that was burnt down due to the actions of the Indian army was the shrine of this revered standard bearer of Kashmir, so identified with the Kashmiri identity itself. The popularity of the saint was such that during Afghan rule of Kashmir, at the turn of the 18th century, when the governor of Kashmir wanted to declare himself independent of Kabul, he struck coins in the name of Nund Rishi to attract popular support.

It must also be mentioned that among the saints of this Silsila there were women too, which is again uncharacteristic of orthodox Islam. The saints Behat Bibi, Dchat Bibi, Shanga Bibi, Deta Bibi, Sala Bibi and Sham Ded were disciples of Nuruddin himself. Other women saints of the Silsila are Sanga Bibi and Ganga Bibi.

Nuruddin's teachings

All over the subcontinent one very important attraction that various religions such as Buddhism, Sikhism and Islam held for Hindus of the lower caste was their egalitarianism. Sheikh Nuruddin, in his sayings, reserves trenchant criticism for the brahmins and their caste order, and explicitly points to Islam as a means to liberation:

*"One who harps proudly upon ones caste
Is bereft of reason and wisdom
Here the good alone can claim noble descent
In the hereafter caste will be extinct
Were you to imbibe the essence of Islam
Then no one would be purer than you."*

The Islam that Sheikh Nuruddin propagated was an ethical system. The virtues of 'forgiveness, kindness, tolerance, mercy, generosity, compassion, patience, humility' and 'living by the sweat of one's brow' were for him the hallmark of a true muslim. Instead of the retributive form of justice, Nuruddin stressed mercy and kindness :

*"Sow thou the seeds of friendship for me every where
And slay not even my enemies."*

And Nuruddin had utter contempt for the Muslim clergy who did not live according to precept. He ridiculed the Ulema for their hypocrisy, arrogance and acquisitiveness and advised his followers to seek the refuge of Allah at the mere sight of the Ulema.

The British Commissioner of land settlement said in 1890 that he found 'a delightful tolerance' existing between the followers of Islam and Hinduism in Kashmir. Lalla Maji the Saivite mystic who was also a trenchant critic of Brahminism is to this day

accepted as a great saint (called Lal Ded) by Kashmiri muslims. And Sheikh Nuriddin who according to popular myth suckled at her breast, called her an Avatar.

The infusion of Hindu symbols, ideas and forms is carried also into the ritual practised by Kashmiris at the shrines of the saints. The preservation of the relics of the saints in the shrines (for instance a hair of Prophet Mohammed at the shrine of Hazratbal), the recitation of litanies in chorus, praying with folded hands, are all seen as accretions of pre-Islamic practices into Kashmiri Islamic culture. In fact, the very existence of the shrines (Ziyarats), as distinct from the mosques, is seen as a non-Islamic tradition by the orthodox.

Contention between different perceptions

In the Kashmir valley there has also been a current of orthodoxy that disapproves of the specifically Kashmiri character of the Islam practised by Kashmiris and seeks to make it conform to an orthodox norm. As one leading Jammu advocate from Bhadarwah in the turbulent Doda district said to us, 'it is a conflict between those who believe in the shrines of the saints and those who do not believe in the shrines.' The latter, represented by the Ahl-i-Hadith in the last part of the last century, and the Jamaat-i-Islami today have been waging a campaign for cleansing Kashmiri Islam of unorthodox accretions. We are not concerned with the theological rights and wrongs of the matter. But what is relevant is that in the Kashmir context, the difference between Kashmiri Islam and orthodox Islam is also reflected in perceptions about the liberation that they are fighting for. As the same lawyer added, 'those who believe in shrines want an independent Kashmir, and those who do not believe in shrines want to join Pakistan.' (Nobody, incidentally, wants to remain in India)

That the Jamaat-i-Islami has set up schools extensively in the valley and has been making a determined effort to mould the youth in accordance with its world view is an acknowledged fact. To what extent it has succeeded in recreating Kashmiris in its image is a disputed point. Speaking to liberal minded persons on both sides, however, the impression one gets is that while the Jamaat-i-Islami has been unsparing in its attempts to dominate Kashmiri culture, its success is not spectacular. On the contrary, says one observer, the fundamentalists have had to compromise with the shrines. Their leaders such as Syed Ali Geelani, who deprecate the worship of the shrines, have had to address gatherings of the believers at popular shrines such as Hazratbal. Their success, this observer believes, is hardly twenty percent, and if they appear dominant today, that is only because they have the Pakistan-trained guns of the Hizbul Mujahideen behind them. And also, we may add, because the government of India would like to project them rather than secular Kashmiri nationalists as the representative ideologues of the Kashmiri struggle, to bolster its own case that it is fighting muslim fundamentalism and not Kashmiri nationalism in the valley.

Another observer remarked that the influence of the Jamaat-i-Islami is strong only on the elder generation and not the younger generation.

All this has nothing to do with the right of the Kashmiris to determine their own fate. We speak with appreciation of the tolerant traditions of Kashmiriyat, not to make it the basis of a plea for 'allowing' the Kashmiris the freedom to determine their future. The culture of Kashmir is hailed for what it signifies for the future of Kashmiri society, whether it remains in India or not. As for self-determination, whether that seeks a secular independent Kashmir, or incorporation in Pakistan, in either case it remains a recognised political right. An attitude has been prevalent in India that the secular humanist tradition of Kashmir is to be prized because it is 'useful' for India's 'cause', which is the incorporation of Jammu and Kashmir into India. We must reject it. The tradition is to be prized for its own sake whether or not it will help to bring J&K into India, whether or not it can be 'used' by India to solve the problem in its favour.



Without comments

Extra Legal Measures

"I was kidnapped by militants, and was infiltrated to the other part of Kashmir for getting training in arms and ammunition. After staying there for two weeks I returned to the valley and indulged in subversive activities. We burnt schools and resorted to extortion and....."

Since the outbreak of militancy these 'voluntary' statements are being made, with intervals by the detained militants not before the judicial authorities but before the dis-credited State Controlled Electronic Media. Some non-Kashmiri militants have also been dragged before the Camera and provided the ready made 'script' to narrate.

Whether the purpose behind these "TV" confessions is being achieved or not, the answer would be it depends upon the credibility of government controlled media. It is an admitted fact that the credibility of the State Controlled Media (India), has remained low. But one thing is certain these confessions acts as black propaganda advertisement, which would influence the human impartial mind susceptible advertisements. Besides it causes great embarrassment to the relatives of militants. Its legal validity was challenged in the State of J&K (Jammu and Kashmir) by late Mr. H.N. Wanchoo through a writ petition before the Hon'ble High Court. In the petition it was stressed that since Extra Judicial Confessions are subject to proof with other evidence, so the Media be directed not to parade and display the detenu before the Camera and forced to give incriminating statements. The petition was filed in 1991-92. The Hon'ble High Court issued notice to the other side, but refused to grant add. interim relief, to direct the State not to parade detenues before TV Media. After first hearing the petition has never seen the light of day.

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IV THE NATIONALIST MOVEMENT IN KASHMIR

"The trampled pride and hope of the people of the Kashmir was like molten lava ready to flow....

The valley of flowers was about to burst into flames"

--Sheikh Abdullah
Atish-e-Chinar

We must clarify at the very outset that nationalism here refers to Kashmiri nationalism and not Indian nationalism. As a former National Conference Minister said to us, while the subcontinent was involved in a fight against the alien rule of the British, the Kashmiris were fighting the alien rule of the Dogra Maharaja.

The Princely State of Jammu and Kashmir was a conglomerate region of ethnic, linguistic, religious and topographic plurality. At least twelve languages (counting also dialects) are spoken in the state, the principal tongues being Kashmiri, Dogri, Pahari, Ladakhi and Urdu. It is today divided into two major segments, one in India and one in Pakistan. The Indian part is what is called the state of Jammu and Kashmir by India and Indian occupied Kashmir (IOK) by Pakistan. The Pakistan part is what is called Azad Kashmir by Pakistan and Pakistan occupied Kashmir (POK) by India. The northern territory of Gilgit is also in Pakistan.

Indian J&K consists of the Jammu division (6 districts), the Kashmir division or the Kashmir valley (6 districts) and the Ladakh division (2 districts). Pakistani J&K consists of the Mirpur division (3 districts) which is contiguous with India's Jammu, the Muzaffarabad division (2 districts) which is contiguous with India's Kashmir valley, and the centrally administered Gilgit agency in the very north.

Tyranny of Dogra rule

At the time of partition, 77% of the population of Jammu and Kashmir were Muslims by religion. Not only the state as a whole but each of the divisions mentioned above had a Muslim majority, excepting Ladakh where Buddhists and Muslims were

approximately equal in number. But the ruler of the state was a Hindu, Maharaja Hari Singh, scion of a Dogra family that had ruled J&K ever since 1846, with Jammu as its capital. The ruling family was known for its cruel and oppressive rule. Some of the stories told about this dynasty are quite macabre, though they were perhaps no different from their Sikh, Afghan and Mughal predecessors in the region.

Gulab Singh, progenitor of this family, was given Jammu only as a jagir by Maharaja Ranjit Singh, the Sikh ruler whom he had served in the army. He later rose to prominence at the Sikh capital of Lahore, and treacherously helped the British to defeat the Sikhs in the Anglo-Sikh wars. In recognition of this service of duplicity the British made over Kashmir to Gulab Singh in the Treaty of Amritsar (1846), in return for 75 lakh rupees, and a token annual rent of twelve pashmina (shawl) goats, one horse, and three pairs of Kashmir shawls. Kashmiri nationalists were to later describe this as nothing but a sale transaction. And as the poet Allana Iqbal added, 'How cheap the sale was'.

For the Kashmiris who counted their subjection to alien rule from the time of Akbar's annexation in 1586, this meant that their valley had passed from Moghal to Afghan to Sikh to Dogra oppression. From the time of the Moghals the lot of the Kashmiris was one of suffering under tyrannical rule, whether Muslim, Sikh or Hindu. Taxation was extremely severe. Gulab Singh was described as 'sucking the very life blood of the people' through taxes. As late as the 1940s, a British social worker said of Hari Singh's government that it taxed 'every hearth and every window. Every cow, buffalo and sheep was taxed, and even every wife. Finally the zaildari tax was introduced to pay for the cost of taxation'. Any revolt against authority was suppressed swiftly and brutally by Gulab Singh. It is said that some rebels of Poonch were flayed alive and stuffed with straw and exhibited by the road side as a deterrent example. His son Ranbir Singh is said to have drowned Muslim subjects by the boat-load so that inquisitive British officers would not see too many starving Muslims.

Discrimination against Muslims

In the Kashmir valley the overwhelming majority of the people (93% in 1947) were Muslims. The seat of the Maharaja was Jammu, which is the region of the Dogra people, and positions of power and authority in the Kingdom were gradually taken over by the Dogra elite. In the valley, the miniscule Hindu community of Pandits dominated the white collar jobs though they too were unhappy that the bureaucracy of the kingdom was monopolised by the Dogra Rajputs, and agitated for greater share for Kashmiris in positions of authority. While many Pandits belonged to the absentee landlord Jagirdar class, there were a considerable number of peasant proprietors too.

But the Muslims of the valley, barring the Jagirdar class, were the most oppressed and neglected. They were not only overwhelmingly poor, but even the middle class among them were discriminated against by the Hindu regime. In a famous statement issued to the press in 1929, Sir Albion Bannerji, who had resigned in disgust after two years as the Maharaja's foreign and political advisor, noted that 'the large Mohemmedan population, absolutely illiterate, labouring under poverty in the villages' was governed like 'dumb cattle'. They were the labourers, the tenant farmers and the artisans. Their oppression was dramatically highlighted by the strike of the five thousand (almost all Muslim) workers of the government run silk factory in Srinagar in 1924.

The cattle did not remain dumb, however. One of the Kashmiri Muslim young men who read Bannerji's statement in the papers, and defended it in a 'letter to the editor' against loyalist Muslim critics, was Sheikh Mohammed Abdullah. He was at that time a post graduate student of chemistry at Aligarh Muslim University. He later took up a job as a science teacher in a school in Srinagar, but that did not last long. He soon became fully engrossed along with other educated Muslim youth, in organising the resentment of the Kashmiris against the Maharaja's government, holding meetings in mosques and in public places, agitating about the problems of the oppressed Muslims, and petitioning the Maharaja's government to end discrimination against Muslims.

13 July, 1931 is still commemorated by Kashmiris as a mile-stone in their struggle for freedom. Sheikh Abdullah, in his memoirs, likens the importance of the happenings of that day to that of the Jallianwala Bagh massacre in the saga of India's independence movement. The Maharaja had agreed to listen to the Muslims, and delegations were being selected from different parts of the state to talk to him. Sheikh Abdullah was included in the delegation of seven selected from the Kashmir valley. The context for the talks was the unhappiness of the Muslims about certain incidents that had taken place in the state which had offended their religious sensibilities. While this was going on, a certain Abdul Qadir gave what the authorities considered to be a seditious speech at a protest meeting held on 25 June, 1931. He was arrested and was to be tried on 6 July. But as the people gathered in large numbers to obstruct the trial, it was shifted and proposed to be held in the Srinagar Central Jail on 13 July. On that day, while the trial was to begin, a large number of people tried to force themselves into the jail. When the Governor came there with police force, there was stone pelting and the Governor ordered the police to open fire. 22 persons were killed. Their bodies were cremated at a holy place, the Khanqah-e-Naqshbandia, and ever since that day 13 July has been commemorated as martyrs' day by Kashmiris.

An essentially nationalist movement

It must be stressed that in their own perception, the Kashmiris' struggle against the Maharaja was simultaneously a struggle against an oppressive and autocratic feudal regime; a struggle against the discrimination against the Muslim majority by a Hindu dominated Government; but above all it was the struggle of Kashmir's against alien rule. It was the theme of freedom from oppressive alien rule that set the tone of their outlook. It can't be stressed too often that unless this dimension of the Kashmiri political aspiration is understood, we can understand nothing about the 'Kashmir Problem'. That from the very beginning it was linked to specifically Muslim grievances and was agitated from religious places as much as from public places should not divert attention from the fundamentally nationalist, that is Kashmiri, character of the struggle. The most popular section of the leadership of the struggle, in particular Sheikh Mohammad Abdullah, was from the beginning conscious that theirs was not a communal struggle, and was unhappy that a major section of a Pandits reacted to it communally. Abdullah was a believing and practising Muslim and was quite emotionally attached to his religion. And yet he and his colleagues found no difficulty in articulating the Kashmiri urge for freedom from alien subjection in harmony with the just resentment of the Muslim majority against discriminatory Hindu rule.

The agitation against discrimination against Muslims was earlier in the century taken up by various conservative Anjumans (associations). These associations were more religious in outlook than the later leadership. And they took up the task of spreading education in the orthodox Muslim mould along with the protest movement. One of the early leaders of this orthodox Muslim reform-protest movement was the Mirwaiz of Kashmir, Maulvi Ahmadullah Shah, whose nephew Yusuf Shah followed him as Mirwaiz and remained a bulwark of the orthodox strain in the Muslim politics of the valley. But the more popular strain was that under the leadership of men like Sheikh Abdullah who consciously developed the struggle from the point of view of secular Kashmiri nationalism.

It was natural in the circumstances we have discussed earlier that the Muslim majority attributed their problems to the *Hindu* character of their rulers and the local officialdom who were overwhelmingly Kashmiri Pandits. A major section of the Pandits, for their part, identified quickly with the regime and ganged up in the Kashmiri Pandit conference to set up their interest against those of the majority. This led to a communal situation in the early 1930's, but the composite culture of the Kashmiris and its tolerant traditions helped tide over the division. After that until recent years, the Kashmir valley has never seen communal disturbances, even at the height of communal riots in the rest of the subcontinent, or even in the Jammu Region of the State, a fact that the Kashmiris recount with justifiable pride.

Secular bearings of the national movement :

Birth of the National Conference

The unrest culminated in the formation of the Jammu and Kashmir Muslim Conference (later to become the National Conference) which held its first annual meeting in 1932. It was beset by various political, personal and denominational problems from the beginning, both in the form of internal dissensions and attacks from outside, with all of which we are not concerned. What is germane to our purpose is that the Kashmiri people's struggle was from the beginning riven by two basic trends, one of which wished to lead it within an orthodox Muslim framework, and the other a secular Kashmiri nationalist framework leaning towards the ideals of social equality. Sheikh Abdullah, who was elected first President of the Muslim Conference, declared in his presidential address: *"We have repeatedly declared that the Kashmir movement is not communal; it is a platform to address the grievances of every section of the people. We shall always be prepared to help our compatriots, Hindus and Sikhs. No progress is possible unless we learn to live in amity. For that, mutual respect for each other's legitimate rights is an important precondition. I repeat, Kashmir movement is not a communal movement"*.

The Mirwaiz Yusuf Shah, apart from his differences of outlook with Abdullah, appears to have also been jealous of Abdullah's quick rise to leadership and popularity. He tried to attack him by accusing him of being an Ahmediyya, a very unorthodox set of Muslims. Abdullah was actually a Sunni Muslim of the Hanafi School. There were riots and street fights between the followers of Abdullah and those of the Mirwaiz, and the latter finally left the Muslim Conference and set up his own Azad Muslim Conference. But the overwhelming majority of the leaders and the followers of the Muslim Conference remained with Sheikh Abdullah. (The leaders included, among others, Bakshi Ghulam Mohammad and Ghulam Mohammad Sadiq, both of whom, driven by ambition, would later voluntarily work as tools in the hands of the Indian Government to defraud the Kashmiri people and set at nought what all of them started collectively.)

Representative Government was one of the demands of the Muslim Conference and the other organisations fighting the Maharaja's rule. In 1934 the Maharaja proposed to constitute a Praja Sabha, some sort of legislative body, which would be more than 70 % nominated, and whose legislative exercises could be vetoed by the Maharaja. Despite regarding it as a hoax, the Muslim Conference decided to participate in the elections. Although it was opposed at the polls by the Azad Muslim Conference of Mirwaiz Yusuf Shah, the Muslim Conference won the elections.

The process of transformation of the Kashmiri struggle into a secular nationalist

struggle with an agenda of democracy and socialism continued apace. Abdullah says in his memoirs that he was encouraged by both Jawaharlal Nehru (whom he met in 1937) and the poet Mohammad Iqbal to drop the word Muslim from the name of his party. The issue was debated and clinched by the Muslim Conference amidst its unceasing agitation, frequent arrests and incarceration of its leaders and cadre. The working committee of the organisation, by a majority, accepted on 24 June 1938 the change of the name to J and K National Conference and also appropriate changes in the constitution to enable all people regardless of religion to become members. In Abdullah's own view, the Muslim Conference from its very inception 'was essentially a National Organisation' (in saying Nation, he of course refers to the Kashmiri Nation). And yet, in the prevalent milieu, the task of making this non-religious national identity explicit was not easy. As he says 'We were pulverised... by the obscurantist... millstones of the Hindus and Muslims'. There was the suspicion of the Kashmiri Pandits and the opposition of Jammu Muslims to be overcome, in addition to the barbs of Abdullah's traditionalist Muslim critics in the valley. But the party's general assembly ratified the change proposed by the working committee on 27 April 1939, and the National Conference was born, with the prefix Jammu and Kashmir that gave the impression of a state-wide organisation. But while it was not without presence outside the valley, its real base was only in the valley where it was by far the strongest political force for a very long time, until the Indian rulers, with the help of ambitious local collaborators, successfully destroyed its appeal by means of the most reprehensible acts of manipulation and deceit, leaving the gates open for what everybody is lamenting these days.

The nationalist agenda

The nationalist agenda of the National Conference was quite simple: Liberation from foreign domination, which in the beginning meant the rule of the Dogra dynasty of Jammu, and later that of the Union of India. At its first annual conference the National Conference elected as president Sardar Budh Singh, a Sikh leader from the Jammu region whom Sheikh Abdullah had described as his 'spiritual father', (who would later however get disillusioned with the insensitivity of Sheikh Abdullah, as Prime Minister of the state of Jammu and Kashmir, to the problems of Jammu region. But that is a later story.) In the 1940's the National Conference maintained close friendship with the Indian nationalist movement, and their representatives attended the annual sessions of the Indian National Congress as observers. In the subcontinental politics the National conference stayed close to the Congress and opposed the Muslim League which they regarded as a party of Nawabs. Those Muslims in the valley who disagreed with Abdullah, led by Mirwaiz Yusuf Shah and joined by a few former associates of Abdullah, revived the Muslim Conference in 1941. The Muslim Conference would form the government in Azad

Kashmir after 1947.

To promote its wider social objectives the National Conference set up an agenda that was laid out in the 'Naya Kashmir' manifesto approved in the annual convention of the party held at Sopore in Baramulla Dist. in 1944. It was an agenda to safeguard the rights of 'women, workers and weaker sections of society'.

It was an agenda to safeguard the rights of 'women, workers and weaker sections of society'. The manifesto was opposed, in Abdullah's words, 'not only by the Nawabs of the muslim league but also the reactionary forces within the Congress'. But it was a far-reaching agenda of social reform and amelioration which the National Conference tried to implement after the accession of Jammu and Kashmir to India.

Quit Kashmir movement

And thus the story comes to 1947. The British were to leave, and India was to be partitioned into two countries. The muslim majority areas in East and North-West would become Pakistan. The rest of British India would be called India. And the princely states could decide according to the wishes of the rulers which of the two countries they would join, or whether they wanted to remain independent. Thus the people of Jammu and Kashmir were suddenly confronted with the idea that the ruler whom much of the state detested could merge them in either India or Pakistan without regard for their wishes. **If the British, instead of selling J & K to Gulab Singh in 1846 for Rs. 75 lakhs, had ruled it as their territory, then almost the whole of J&K would have automatically gone to Pakistan, following the communal logic on the basis of which the subcontinent was divided. But as it was, the fate of about 40 lakh people was to be decided by one man.** There is a lot of controversy about who did what to force a decision in their favour. We will not go into the details of the controversy. It is sufficient to say that while the newly established governments of India and Pakistan each hoped that the Maharaja would decide in its favour and put pressure in various ways on him, the Maharaja longed to remain independent or else to join that country which would safeguard his power against the Kashmiri agitators led by Sheikh Abdullah.

The stand of the National Conference in the matter was quite clear. They had started a 'Quit Kashmir' movement against the ruling dynasty in 1946. In their view, it was only after the Kashmiris were free to make their own decision that a popular decision about the accession could be made. And so for them the priority was to liberate Kashmir from the Hari Singh's rule and establish a representative government. Freedom before accession was their slogan as explained by Sheikh Abdullah in a public meeting as late as 2 Oct. 1947. The first task he said was to overthrow the Dogra rulers and set up a representative

government that would pave the way for 'Freedom, Welfare and Progress'. The Indian Congress leaders did believe that once the National Conference was in a position to decide it would decide to accede to India. Whereas the Maharaja even toyed with the idea of acceding to Pakistan because in India he would lose his kingdom whereas in Pakistan he hoped his dominion would not be tampered with.

This hope he had partly because Md Ali Jinnah, who was more of a constitutionalist than the Congress leaders, had pledged to respect the sovereign powers of the Princes, and partly because if he were removed the Pakistanis would have to face Sheikh Abdullah who regarded Jinnah's Two Nation Theory as 'poison'.

Many of the Hindu Communalists of Jammu at that time actually did not want the Maharaja to accede to India because they did not want a 'Hindu Kingdom' to merge in secular India. They urged the Maharaja to remain independent, and as the noted democrat Balraj Puri, political activist and analyst of Jammu, reminds us, those in the Jammu region (such as himself) who agitated for accession to (what was declared to be) secular democratic India as against continued monarchic rule, were dubbed anti-Hindu by the Hindu communalists.

Inscribing their own destiny

There is no way of proving what exactly the ordinary Kashmiris of the valley wanted at that time, for they were not allowed to express their opinion in any poll then or afterwards. One thing that is certain is that Sheikh Abdullah, was immensely popular indicating that they supported his political opinions. And as for Abdullah, he wanted the liberation of Kashmir, and an opportunity for the Kashmiris to speak for themselves before anything else could be thought of. It is true that he opposed the Two Nation theory, regarded the Muslim League as a party of zamindars, felt a certain affinity with (what he thought to be) the social outlook of Nehru and Gandhi, and hoped that his manifesto of Naya Kashmir would find an echo in "secular democratic and progressive" India. But his first concern was freedom for Kashmiris. In a telegram that he sent to the Cabinet Mission in 1946, he said :

"Today the people of Kashmir cannot be pacified with only a representative system of governance. They want freedom. Total freedom from the autocratic Maharaja...."

"This is a historic moment. The future of the Indian people is being determined..."

The right of accession is a contentious issue between three parties, the people, the rulers and the federation. We Kashmiris have to put it in its historical perspective. A sale deed does not have the status of a treaty. Therefore after the termination of the British rule Kashmir has the right to become independent. We Kashmiris want to inscribe our own destiny. . . ."

Abdullah was not equally forthright in all his statements throughout the period. But there is no denying that these statements remained basic to his understanding.

One may sum up the situation by saying that while the Kashmiris wanted freedom, India, Pakistan and Maharaja Hari Singh wanted Kashmir. That continues to be the tragedy to this day, except that Hari Singh is no longer around.



Without comments

Lone's murder

CPJ lodges protest with Indian PM, demands impartial inquiry

In a letter addressed to the Indian Prime Minister and Home Minister the Committee to Protect Journalists (CPJ) has condemned the brutal slaying on August 29, 1994, of journalist Ghulam Mohammad Lone who lived and worked in Kashmir, and his seven year old son. The CPJ has expressed its concern by the reports that an Indian security officer recently threatened Mr Lone with death, and by the local Police Department's assignment of culpability to Kashmir 'militants' without having completed a proper investigation.

Reporting the incident the CPJ has said, on Monday night, a group of armed men broke into the Lone family residence in the town of Kangan, near Srinagar, according to local media sources who interviewed Mr. Lone's widow. The intruders opened fire with automatic weapons, killing Mr. Lone instantly and fatally wounded his son in the stomach. Mr. one, 35, was a newspaper salesman who also contributed reports on a regular basis to the Urdu language press in Srinagar, as well as to the English language Srinagar Newspaper, Greater Kashmir.

Indian security forces had laid siege to Kangan on August 22 as part of a "cordon and search" operation, local residents told reporters. As part of the operation, adult males in Kangan were required to present themselves for an identification parade before a Kashmiri informant.

During the parade, an officer whom the towns people identified variously as Badshah Khan or B.P. Sharma of the 299th Artillery Regiment, reportedly singled out Mr. Lone, and publicly threatened to kill him if he did not cease writing stories about troop movements in the area for the vernacular press. The officer also reportedly forced Lone to show him where he lived, and conducted a summary each of the premises. Mr. Lone himself travelled to Srinagar about five days before his death and recounted the threat against him to local journalists, several of whom reported it in the August 25 editions of their newspapers.

'In a statement issued by Police headquarters in Srinagar' Mr. Lone's death was ascribed to Kashmiri "militants" seeking to secede from India. However, the Police Department's investigation of the slaying had not yet been completed when the statement was issued according to informed sources.

Demanding an impartial inquiry into the incident, the CPJ has said, "as a non-partisan organisation of journalists dedicated to upholding press freedom worldwide, CPJ views the slaying of Mr. Lone and his son as flagrant violations of the right to "Seek, receive and impart information and ideas through any media and regardless of frontiers", guaranteed by Article 19 of the Universal Declaration of Human Rights of the United Nations. We are concerned, moreover, that the lack of an impartial and thorough inquiry into the matter will have a chilling effect on independent journalism in Kashmir. We therefore fully support the request of our Srinagar based colleagues for judicial investigation into the killing of Mr. Lone and his son, and respectfully as that all responsible parties identified therein be prosecuted to the fullest extent of the law" (Greater Kashmir, Sept. 1, 1994)

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V ACCESSION AND PLEBISCITE

“The Kashmir dispute, in other words, started as a contest over the right to a territory, not the struggle to establish the wishes of a people”.

Alastair Lamb

Kashmir: A Disputed Legacy

As we said earlier, there are various conspiracy theories regarding the conditions under which the Maharaja of J & K was forced to accede to India. We do not wish to go into those theories. We will only note here the acknowledged facts.

Maharaja Hari Singh's unwillingness or inability to take a decision about accession continued into October 1947. During this period, a massive exodus of Hindus and Sikhs into India and Muslims into Pakistan was taking place across the newly created border, accompanied by gruesome killing, rape, loot and arson. The impact of this was felt in the Jammu region of J & K, where the Muslims were attacked and killed. Many of them fled to Pakistan. Alastair Lamb estimates that at least 5 lakh Muslims fled Jammu. This led to resentment among the Muslims of the Poonch region of Jammu and Kashmir bordering Pakistan, who had a long history of rebellion against the Dogra rulers of the State. (We have said earlier that Poonchis rebelled as far back as during Gulab Singh's reign and were cruelly punished). They had, moreover, a martial tradition. Lamb estimates that there may have been about 60 thousand ex-servicemen in Poonch at that time, most of them Muslims. As a consequence there was an uprising against the Maharaja in September 1947 in Poonch, which the Dogra army tried to suppress brutally. The uprising was led by Md Ibrahim Khan, a Law Officer who had been a member of the Praja Sabha from Poonch. Whether the newly formed Pakistan Government actually aided this rebellion as alleged by the Government of J&K may be a matter of dispute, though it tacitly allowed plenty of unofficial help to be given from Pakistan. It is true however that Pakistan was involved in a running battle of words with Hari Singh's Government about atrocities on Muslims in the State, and both sides issued threats of dire consequences in the course of these exchanges. In any case the rebels of Poonch had enough cause for the uprising and did not need to be instigated by Pakistan.

Raid by tribesmen from NWFP

On 24 Oct 1947 a large number of tribesmen from the North-West Frontier Province (NWFP) in the Pakistan side of the border entered Jammu and Kashmir in aid of the rebels of Poonch. While many Pakistani soldiers on leave participated in the raid, and it was led by a Major General of the Pakistani Army by name Akbar Khan, it was not an officially planned invasion. The Pakistani Government had knowledge of it, and aided it passively by doing nothing to prevent it. The number of the raiders was probably between 2000 (Sheikh Abdullah's estimate) and 3000 (Alastair Lamb's estimate), though the Government of India alleged a much larger invasion. When the tribal raiders reached the border of J&K, not only were they joined by the local rebels in whose aid they had come, but the Muslims in the Infantry battalion of the Maharaja's army guarding a bridge on the Jhelum river revolted and joined the raiders, and helped them to enter the Poonch region of J&K.

But once the raiders crossed Poonch and entered the Kashmir valley in Baramulla district they took to indiscriminate loot, pillage, rape, arson and murder sparing neither Muslims nor Hindus nor Sikhs. About 3000 are estimated to have been killed in Baramulla town itself.

It was to save his kingdom from this brutal raid that Hari Singh decided to accede to India. He needed India's help to repel the invading mob and realised that 'they cannot send the help asked for by me without my State acceding to the Dominion of India' as he said in his letter offering accession.

On its part, the Government of India in a communication accepting the accession, agreed that once law and order was restored, the consent of the people of Jammu and Kashmir would be obtained, and only then the accession would be treated as conclusive.

The instrument of accession was signed on 26 Oct 1947 under which the Maharaja conceded authority to the Indian Union only in matters relating to Defence, External affairs and Communications. And on its part, the Government of India in a communication issued the next day accepting the accession, agreed that once law and order was restored, the consent of the people of Jammu and Kashmir would be obtained, and only then the accession would be treated as conclusive. That consent

has not been obtained by India till now. The reason proffered for the offer of a reference to the people was the fine principle that India followed - the policy that in the case of any State where the issue of accession has been a subject of dispute, the question of accession should be decided in accordance with the wishes of the people. India has not explained to date whether and if so when this fine democratic principle was given up.

Popular resistance to the raid

With this legal formality concluded the Indian army rushed to Srinagar by air and road to repel the raiders. It was aided by the National Conference volunteers as well as the people of the valley in its task. Sheikh Abdullah mentions in his memoirs that soon after receiving news of the tribal raid, the entire officialdom of the Maharaja's Government left the valley for Jammu, leaving the administration in the hands of the National Conference. The National Conference, he says, organised people, both Hindus and Muslims, to guard the bridges and protect property, especially that of non-Muslims. Two National Conference activists, Md Maqbool Sherwani of Baramulla and Abdul Aziz of Muzaffarabad were murdered by the raiders for resisting them and sheltering Hindus and Sikhs. The popular mood in the valley, according to not only Abdullah's account, but also contemporary press accounts and those of British officials, was overwhelmingly against the raiders.

It was as the Indian army pushed the raiders back towards the Pakistan border that the Pakistan army entered the fray and a war between the two nascent States followed, that ended when a ceasefire was called on 31 Dec 1948. Thus was Jammu and Kashmir divided into what India calls POK and what Pakistan calls IOK.

Promises

On 2 November 1947 in a broadcast over the All India Radio Nehru reiterated the promise that the future of the J & K would be decided by the people of that State. He said that as soon as peace was restored a referendum would be held in that State under international auspices, and that was a promise which India could not and would not back out of. Later, after the raiders from the Pakistan had been driven out of the valley, there was a celebration in Nehru's honour held in Lal Chowk in Srinagar, where Nehru and Abdullah clasped hands, and Nehru once again promised the Kashmiris that they were entitled to the right of self-determination and India would guarantee it.

It has later been suggested that when he spoke of the will of the people Nehru may have had in mind not only a referendum or plebiscite but also validation through participation in a general election, an argument that the Government of India was

to later advance. It is true that the 'reference to the people' promised at the time of accession did not specifically mention plebiscite, but the wording of the promise made by Nehru over AIR leaves little scope for such an interpretation. That promise may be regarded as only morally and not legally binding, but the Government of India made a legally (at least in terms of international law) binding commitment to hold a plebiscite in J&K, a few months later. In its complaint to the United Nations about what it described as Pakistani aggression in Jammu and Kashmir, dated 31 Dec 1947, the Indian Government covered itself against accusations of bad faith by the assertion of yet another fine principle :

"To remove the misconception that the Indian Government is using the prevailing situation in J & K to reap political profit, the Government of India wants to make it very clear that as soon as the raiders are driven out and normalcy is restored, the people of the State will freely decide their fate, and that decision will be taken according to the universally accepted democratic means of plebiscite or referendum. To ensure free and fair plebiscite, the supervision of the United Nations will be necessary".

After that, the only way out that remained to the Indian Government was to claim that all the raiders had not been driven out, or that normalcy had not yet been restored, which are specious arguments if the need to ascertain and implement the will of the people is really taken seriously.

U.N. Resolutions

Once the matter went to the United Nations, it concentrated its efforts first on bringing about cessation of hostilities between India and Pakistan. That was the purport of the first two UN resolutions dated 17 & 20 Jan 1948. It set up a UN Commission on India and Pakistan (UNCIP) to mediate between the two countries under the direction of UN Security Council.

The UN resolution dated 21 April 1948, however, touched up on the plebiscite question. It noted with satisfaction that "both India and Pakistan desire that the question of accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite" and resolved that as a precondition, Pakistan should ensure withdrawal from the state of the tribal raiders and other Pakistani nationals "not normally resident therein" who have entered the State for the purpose of fighting; that India should reduce its armed forces in Jammu and Kashmir to the minimum necessary to support the civilian government in the maintenance of law and order; that both the states must assure full freedom and opportunity for all the subjects of the state to vote on the question of accession; and that the Government of India must give all the powers necessary to the UN appointed plebiscite administrator to conduct a

free and fair plebiscite. while an administration composed of the nominees of the major political groups would in the meanwhile administer the state.

Thus the question of the self-determination of the people of J&K got converted, once India and Pakistan got control of parts of the territory of J&K and went to war over it, into a question of the territorial possessions of these two countries.

The resolution remains unimplemented to this day. While both India and Pakistan in the beginning agreed to plebiscite in principle they could never agree on modalities of it, perhaps because neither of the countries was really wholehearted in its commitment to resolve the issue in accordance with will of the people. For both of them, the timing and modalities of the plebiscite would have to be such that the result would be in its favour. Thus the question of the self-determination of the people of J&K got converted, once India and Pakistan got control of parts of the territory of J&K and went to war over it, into a question of the territorial possessions of these two countries.

The 21 April 1948 resolution was given concrete form in the UNCIP resolution dated 13 August, 1948. India expected that Pakistan should be asked to vacate its presence entirely but India should be allowed to remain in its part of J&K and administer the plebiscite. Its stand was that Pakistan was the aggressor whereas India was morally and legally in the right, and by asking India also to reduce its forces to a minimum, the aggressor and aggressed were being treated equally. Pakistan objected to the plan because it meant that it would have to withdraw from the part of J&K under its control completely, whereas India would only reduce to the minimum its armed forces in the part of J&K under its control, and the civilian administration would be controlled or strongly influenced by Sheikh Abdullah whom the Pakistani leaders regarded as a quisling, and an agent of the Indian National Congress (as Liaqat Ali Khan described him).

On 5 January, 1949, the UNCIP proposed a modification to allay the apprehensions of the Pakistani Government. It said that the plebiscite administrator would have decisive power in deciding the disposal of the armed forces of the two countries, and that the local administration would fully cooperate with the plebiscite administrator in holding the plebiscite. The modification was received with approval by the Pakistani Government

but India was not very happy about it.

Thus began a series of efforts by the UN to evolve a method of holding plebiscite that would be acceptable to both parties, while the principle of it was supposedly endorsed by both. Resolutions were passed again and again marking each such effort by the UN (3 Jun, 1948, 14 Mar, 1950, 30 Mar, 1951, 10 Nov, 1951, 23 Dec, 1952, 24 Jan, 1957, 21 Feb, 1957 and 2 Dec, 1957), each of which recalls the earlier resolutions of 21 Apr, 1948 and 5 Jan, 1949, commends India and Pakistan for still standing by the resolutions, and reaffirms its determination to resolve the residual differences in the matter. There was a McNaughton plan, a Dixon report, not one but five Graham reports, and a mediation effort by Gunnar Jarring followed by yet another effort by Frank Graham in 1958. After 1957 the Soviet Union stepped in as India's saviour, and no further resolutions inimical to India's interests could be passed in the UN Security Council because of the Soviet veto. And in 1964 India's representative Md Currim Chagla made bold to tell the United Nations Security Council: 'I wish to make it clear on behalf of my government that under no circumstances can we agree to the holding of a plebiscite in Kashmir.'

Turned into Indo-Pak problem

What is striking in the entire UN exercise is that what began as a problem concerning the aspirations of the people of J & K soon turned into the problem of the interests of India and Pakistan, and got stuck because the interests of these two governments could not be reconciled. And these could not be reconciled because these two governments had no real desire to subordinate their interests to the wishes of the people of Jammu and Kashmir and to let that be determined by a plebiscite. Pakistan, in the beginning, had not much desire for a plebiscite because it was not sure of a decision in its favour even under the most favourable conditions. It is generally believed in the valley, and is accepted even by the historian Alastair Lamb who makes no secret of his sympathy for the official Pakistani position, that in 1948 the plebiscite would have gone in favour of India even if it had been held as Pakistan wanted it to be held. This was because Sheikh Abdullah, at that time, preferred accession to India, and his popularity in the valley (no matter that Pakistan considered him an agent of Nehru) was so overwhelming that it would have had a decisive impact on the voting outcome in the whole State. Whether Abdullah preferred accession to India only because the 'third option' of an independent State of Jammu and Kashmir was not available is a matter for speculation. He was not always unambiguous in his pronouncements. But it is a matter of record that he said in public in Oct 1947 after the accession by the Maharaja, that:

"Kashmir will be a joint Raj of all communities. Our first demand is complete transfer of power to the people of Kashmir. Representatives of the people in a democratic

Kashmir will decide whether the State should join India or Pakistan. If the people are bypassed and the State declares its accession to India or Pakistan I shall raise the banner of revolt and we face a struggle. Of course we will naturally opt to go to that dominion where our demand for freedom receives recognition and support. We cannot desire to join those who say that the people must have no voice in the matter."

As early as 1944 the Naya Kashmir manifesto of the National Conference had visualized an independent neutral Kashmir on the model of Switzerland in Europe. And the US Ambassador to India who had exchange of views on behalf of his government with Abdullah in the early fifties, later said that Abdullah preferred an independent Kashmir but failing that he preferred accession to India rather than Pakistan.

Distrust of Kashmir people

Why India also did not show much enthusiasm for plebiscite when in all probability it would have got a vote in its favour is a much speculated question. We will not go into a discussion all the answers offered by analysts and historians. But what is striking in this reluctance is the attitude it reflects, which is typical of the Indian government's utterly undemocratic approach to the question of accession of Jammu and Kashmir to India. India has never had any trust in the people of J & K. It has never been willing to let them express their views. It has always depended upon one individual whose charisma or 'hold' on the people would ensure the compliance of the people to the incorporation of that State in India. In other words, it depended throughout on someone who would 'deliver the goods' (as Nehru approvingly spoke of Sheikh Abdullah) to India, the goods in question being the territory and people of J&K. In return, naturally, India was prepared to put up with whatever that person did to the people of J&K, whether he was corrupt, autocratic or brutal. We shall see in the next chapter that it is this policy that has led to the present crisis.

As time passed, India found that there was a shortage of 'deliverers of goods', and in any case that incorporation of J&K into India could be made a fait accompli by means of political manipulation and constitutional skulduggery, for the Kashmiris were supposed to be timid and docile people (everyone thought so until 1989). India therefore became increasingly reluctant to talk of plebiscite, even as Pakistan became more enthusiastic about it. And to justify its reluctance to live up to the high principles it had professed in 1947-48, India in the mid-1950s took refuge in cold war politics. After 1953, Pakistan moved into the American Orbit in terms of cold war politics. It joined the South East Asia Treaty Organisation (SEATO) and Central Treaty Organisation (CENTO), both of them American supported Asian groupings. Pakistan also sought and obtained American military aid, and promised to allow the US to set up military bases in its territory. Pakistan undoubtedly hoped to use these

alliances and links with US to put more pressure on India vis-a-vis Kashmir. But the move was utilised by India to inject the idiom of cold war politics into the Kashmir question and to take refuge after 1957, in Soviet vetos.

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It was said by the Indian Government that the links Pakistan had developed with the US had changed the whole context of the Kashmir question, and that it could no longer be discussed in the same terms as in the past. This implied that earlier commitments to a plebiscite in J & K would no longer be regarded as binding on India because of the 'changed context'. As Alastair Lamb says 'Nehru.... used the change in Pakistani Foreign Policy as grounds for the abandonment for the foreseeable future of any form whatsoever of a Kashmiri plebiscite.' After 1957, As the Soviet Union jumped in its cold war interests to India's aid, Jawaharlal Nehru and his advisors were convinced that 'because of American military aid to Pakistan and Russia's moral support for India..... it was no longer necessary to even pretend to be interested in the various schemes for a Kashmiri plebiscite.'

We are not here concerned with the rights and wrongs of cold war politics, and with whether or not third world countries such as India had genuine reason to fear American expansionism. The point is that these realities and fears combined to provide India with an alibi, which it shamelessly used, to give up the high principles that it had repeatedly proclaimed in 1947-48 vis-a-vis Jammu & Kashmir. The question of the J&K people's right to determine their own future, which had earlier got entangled in Indo-Pak military and political rivalry, not for any fault of the people of J & K but because those two countries went to war over the territory of J & K, now got further entangled in cold war politics, once again for no fault whatsoever of the Kashmiris, but as a fallout of the American-Soviet conflict over territorial spheres of influence.

VI THE POLITICS OF INCORPORATION - I (1947-53)

“The State has a predominantly Muslim population. But I have observed that Sheikh Saheb has fired Kashmiris with local patriotism. . . . they have one language, one culture, and as far as I can see they are one people. I cannot readily distinguish between a Kashmiri Hindu and a Kashmiri Mussalman. . . . commonsense dictates that the will of the Kashmiris should decide the future of Kashmir and Jammu”.

M K Gandhi

When Hari Singh acceded to India, he also offered to share power with Sheikh Abdullah, his principal political opponent. Abdullah, who had been in and out of jail ever since 1931, was released from prison on 24 Sep 1947 on Indian pressure, but after taking from him an assurance of loyalty to the Maharaja. But he started violating the assurance as soon as he came out of the jail. When finally Hari Singh under the stress of circumstances acceded to India, Nehru insisted that he share power with Sheikh Abdullah. Senior journalist Ajit Bhattacharjea expresses the belief that it was this desire on Nehru's part that caused the delay in the Indian government's response to the Maharaja's offer of accession. As a consequence, the Maharaja in his letter offering accession said that it was his 'intention to at once set up an interim government and to ask Sheikh Abdullah to carry the responsibility in this emergency with my Prime Minister.' It is interesting that Nehru did not insist, as he could have, that Hari Singh should initiate the process of setting up representative government in Jammu and Kashmir. He only insisted in Hari Singh's administration sharing power with Sheikh Abdullah.

The point is not whether Abdullah was popular with the masses. He undoubtedly was, at least in the valley which was (and is) the most densely populated region of J & K. And it is not that because he was popular he could make the people accept his decision. Rather, he could successfully bring Kashmir into the Indian Union because, as Balraj Puri says, 'the Kashmiri mind was what it was,' a mind that responded more to the ideals that the Congress spoke of, than the religious appeal of the Muslim

league and the J & K Muslim conference, whose leaders such as Mirwaiz Yusuf Shah and Chowdhary Ghulam Abbas soon migrated across the border. And yet Abdullah's enthronement could not be equated to the establishment of a representative government. That did not matter to Nehru for whom Abdullah's popularity was the principal guarantee of Indian interests in J & K.

The consequence of this definition of representative government as government by a popular person who could deliver the State to India, was a further deterioration of the relations between the different religious, linguistic and ethnic groups in the composite State. Abdullah understood and ably represented the Kashmiri psyche, but he neither understood nor sympathised with the people of the Jammu and Ladakh regions, including the Muslims among them. His habit of identifying Kashmir with the whole of Jammu and Kashmir, and all of Jammu with the ruling family of Hari Singh did a lot of damage to inter-regional relations, as narrated by Balraj Puri. Abdullah's government gave disproportionately poor representation to the Jammu region, thereby giving rise to feeling of Kashmiri domination.

On the other side of the regional divide, Hindu communal forces raised their head in Jammu and deliberately worsened the regional as well as religious division, simultaneously feeding Sheikh Abdullah's Kashmiri isolationism, feeding upon it, and distorting it as Muslim communalism, which it never was. The upshot was the embitterment of Abdullah and the widening of the gap between Kashmir and Jammu, to the detriment of the interests of both regions vis-a-vis the question of accession. Abdullah to begin with had to share administrative power with the State's Prime Minister, Mehr Chand Mahajan, an Arya Samajist who never got along with Abdullah. Mahajan remained Prime Minister and Abdullah was called Director General (Administration). When Mahajan's tenure ended in March 1948, Sheikh Abdullah became Prime Minister in his place.

Program of reforms and the growth of Hindu communalism

Abudullah used his power to immediately institute land reforms by abolishing Jagirdari and Chakdari rights without compensation and imposing a land ceiling. This hit the Muslim Jagirdars too, but it principally affected the Hindus, both the Dogras of Jammu and Kashmiri Pandits. 396 big jagirs were abolished and 4 lakh acres were taken over from 9000 land owners. Abdullah tried to set right the injustice done to Kashmiris in the armed forces by raising a militia in the valley, which naturally consisted principally of Muslims. He also tried to get Muslims into positions of importance in the administration that were hitherto denied to them. Later on rural indebtedness was sought to be alleviated by decreeing that if the debtor

had paid one and a half times the principal, then the debt would be treated as liquidated. As Sheikh Abdullah says in his memoirs, 'after about 400 years, the Kashmiris attained independence, and they set about improving their lot.' This was how the Kashmiris saw and understood what was happening, whereas others saw the happenings in terms of accession of Jammu and Kashmir to India or Pakistan. And what mortified the Kashmiris was that their entirely justified acts of atonement for past injustice were presented as communal acts by Hari Singh and his coterie as well as the communal Hindus of Jammu.

On the other hand, communal violence aimed against Muslims was continuing in the Jammu region. Abdullah believes that Hari Singh, his wife Tara Devi and Prime Minister Mahajan (while he was in tenure) were hand in glove with the Hindu communalists, and were directly responsible for the atrocities on Muslims. It appears that it was Hindu and Sikh refugees who had survived the carnage in Pakistan and run away to the Jammu region that were the main instigators in the communal killings of Jammu. And the regime of Hari Singh, whether or not it organised their communal acts as alleged by Abdullah, did nothing to prevent them and protect the Muslims. Abdullah was successful in protecting the Hindus and Sikhs in the valley, which remained a model of communal amity, while 'it was a matter of shame' that the Dogra ruler could not protect the lives of Muslims in Jammu.

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Gandhi even asked the Maharaja to accept the responsibility for the killings and abdicate, so that the administration may be handed over to Sheikh Abdullah. And yet at the same time Sardar Patel, Home Minister of India, expressed the opinion in a letter that it was natural for non-Muslims in Jammu and Kashmir to regard the Maharaja as a symbol of their safety.

Abdullah's problem was that he had to retain his political hold against the religion based appeal of Pakistan and its cynicism about India's secular credentials. The massacre of Muslims in Jammu and the openly communal talk and actions of the Hindu communalists in that region would make his task that much more difficult. He became increasingly bitter as time went by. *After the killing of Muslims in Jammu*

subsided, there was a deliberate campaign by Hindu communalists in Jammu as well as the rest of India against the special status given to Kashmir, and against Sheikh Abdullah him self. His policies aimed at setting right the injustice done to Kashmir during 400 years of alien rule from the Mughals to Dogras were painted in communal colours.

The mutual recriminations of Abdullah and Hari Singh continued, with Indian Home Minister Sardar Patel lending a willing ear to Hari Singh, and Nehru a less firm ally of Abdullah. Nehru tried to persuade Abdullah to tone down some of the more radical points of his agenda, such as refusal to pay compensation to expropriated jagirdars. Finally, at Nehru's insistence, Hari Singh was forced to abdicate in favour of his son Karan Singh, who became Regent of the State on 25 May, 1949. Karan Singh was later elected the first Sadr-i-Riyasat of the State and turned out to be a willing collaborator of the Government of India. One of his first acts violative of the spirit of autonomy was the reference to the President of India of the State act abolishing jagirs without compensation. Instead of rebuking Karan Singh for this impertinence, the Government of India used the opportunity to put pressure on Sheikh Abdullah's government to tone down the Act.

Jammu Praja Parishad

Organised Hindu political reaction to the special status of J&K, and to the basic economic and social reforms of Sheikh Abdullah, took birth in the agitations of the Jammu Praja Parishad, closely linked to the RSS. The more rabidly the Praja Parishad agitated, the more justified Pakistan's cynicism of Indian secularism appeared to be; and the more difficult became the task of building a secular and progressive society in Muslim majority Kashmir.

The Jammu Praja Parishad was founded in 1947 by Balraj Madhok, an RSS activist who latter became a Jana Sangh leader. From 1949 onwards the Praja Parishad agitated vigorously against Sheikh Abdullah's government, against Article 370 of the Indian constitution, and against the idea of plebiscite. It also opposed the social and economic reforms of the Sheikh Abdullah government, which had hurt the interests of the Hindu elite, in particular the Dogra elite. Not only Sheikh Abdullah but also the Government of India believed that Hari Singh was financing the Praja Parishad. The Parishad took up a major agitation for the full integration of J&K with India in 1952. This agitation upset Abdullah and the Kashmiris in general, and provoked a strong reaction in the valley.

In the background of this campaign by Hindu communal minded organisations, Sheikh Abdullah began to feel more uncertain about his earlier trust that India would be a secular democratic country. He began to talk openly again about independence. As

he said pointedly, at a public meeting in 1952, in reference to the Praja Parishad campaign, 'if our right to shape our own destiny is challenged, and if there is resurgence of communalism in India, how are we to convince the Muslims of Kashmir that India does not intend to swallow up Kashmir?' Such developments, he added 'might lead to break in the accession of Kashmir to India.' Abdullah also expressed the opinion to Western journalist in 1949 that the only solution to the problem might be an independent J&K guaranteed by the UN. The Indian leadership put pressure on him to water down these statements, but his mood remained rebellious.

Article 370

In the meanwhile the Constituent Assembly of India was drafting the Indian constitution. It had to make provision for the special status of Jammu and Kashmir, which it did in what became article 370 of the constitution. As we have seen, the special status consisted of autonomy for the State so long as it remained in India, and a reference to the people of the State to decide whether it would remain in India. Article 370 incorporates only the first of the two points. The second was completely ignored by the makers of the Indian constitution. *The structure of article 370 makes it clear that J&K was to permanently be a part of India. It incorporates the autonomy provisions of the instrument of accession, but also contains the necessary sub-clauses to get rid of the autonomy.*

In other words the intentions of the Indian rulers were made clear at that point itself. When we agitate against the scuttling of the autonomy provisions of article 370 and demand their restoration (which is a democratic demand), we must not forget that even in drafting Article 370 the craftsmen of the Indian State were unfaithful to the preceding promises and undertakings.

Thus article 370 says that the union legislature and executive will have powers over J&K only to the extent of the three items, Defence, External Affairs and Communication agreed upon in the instrument of accession. But it also adds that (i) it is the President of India, in consultation with the state government, who will declare which matters correspond to the items specified in the instrument of accession; and (ii) any other matter in the union list or the concurrent list of the Indian constitution can be brought into the legislative and executive province of the Union of India vis-a-vis J&K by the President with the concurrence of the State government.

The English historian Alastair Lamb says that article 370 was drafted keeping in view Sheikh Abdullah's sensitivities, and in close consultation with him. In other

words, if he were to 'deliver the goods' he would have to be placated. and article 370 was tailored by Gopaldaswamy Iyyengar on behalf of the drafting committee to suit him. Ajit Bhattacharjea on the other hand, says that Abdullah was dissatisfied with the final draft which was not identical with what they had agreed upon. **But if we look beyond personalities, what is striking is the extent to which the statute dilutes the autonomy promised by the instrument of accession, apart from completely ignoring the promise of a reference to the people that is part of the agreement that finalised the accession.** The article contains self-destructive stings in its long tail. Whether any matter which parliament can legislate upon for the rest of India falls within the terms of accession is to be determined, not by the Union and the State as equal partners, but is to be declared by the Union merely in consultation with the State. And that is not all. If the State concurs, even matters not covered by the instrument of accession can be brought into the province of the Union. And the government of India has ensured the perpetual availability of this concurrence by seeing to it that only such governments as invariably concur with the Centre can come to - or stay in - power in Jammu and Kashmir. The government of India has used the facility provided in article 370 itself to beat it into a comatose state.

Not only the governments in J&K but the Constituent Assembly of the State was itself used for this purpose. The State Constituent Assembly was elected and convened in October, 1951. At first the Government of India's strategy was to depend upon Sheikh Abdullah to create a Constitution favourable to eventual integration of the State into India. The Indian rulers were not particular that the people of the State should elect a Constituent Assembly of their choice and draft a Constitution for themselves within the terms of the instrument of accession as formalised by article 370, and the promise of plebiscite. Instead, Sheikh Abdullah was to see the Constitution through, and provided he 'delivered the goods' India would not question his methods. The Constituent Assembly was to have 100 seats, 25 of them allotted to Pakistani J&K. As those could not be filled, the remaining 75 were to be elected. Quite remarkably, all the 75 seats were won by the National Conference unopposed. This happened by the simple device of rejecting all other nomination papers. It must be remembered that for atleast two years by then, it was the National Conference that was practically running the state, wiping out the difference between the administration and the ruling party. The Muslim Conference had practically disappeared into Azad Kashmir, and the only opposition that remained was the Praja Parishad in the Jammu region, which found that its nomination papers were rejected in 27 constituencies!

Delhi Agreement (1952)

Thus a Constituent Assembly of Sheikh Abdullah's choice was allowed to be set up, to draft a Constitution of his choice, with the proviso that he would not displease

Delhi in making the choice. The Constituent Assembly was also to function as the State legislature until the Constitution was adopted. But as Sheik Abdullah had been making wayward statements about independence and so on, Nehru was apprehensive of the shape of the Constitution that would emerge. There was an exchange of letters full of recriminations between Nehru and Abdullah, followed by talks between the two sides to patch up the differences. The Delhi agreement, (1952) emerged from these parleys. This agreement signed on 24 July, 1952 says that the J&K constitution would be drafted in accordance with article 370 of the constitution of India. It was also agreed that the head of state of J&K would be called *sadr-i-riyasat* and would be elected by the J&K legislature and not nominated by the president of India like other state Governors. It was agreed that article 356 of the Indian constitution which provides for President's rule in a state would not apply to J&K. It was also agreed that the Indian flag would be given a place of respect along with the State flag which would however be distinct.

The Kashmiris had to accept as the first head of the state of J&K the scion of the family which they had fought for more than a century.

A point where Abdullah was forced to compromise with Nehru was in the election of the first *sadr-i-riyasat*. Like all matters pertaining to Nehru's handling of the J&K question, this too was done undemocratically. Instead of allowing the *sadr-i-riyasat* to be elected by the J&K assembly, Karan Singh, the reigning *yuaraja*, was by virtue of the Delhi agreement made to be chosen unanimously by the Assembly. Thus the Kashmiris had to accept as the first head of the state of J&K the scion of the family which they had fought for more than a century. Instead of allowing the *sadr-i-riyasat* to be elected by the J&K assembly, Karan Singh, the reigning *yuaraja*, was by virtue of the Delhi agreement made to be chosen unanimously by the Assembly. He took office in the new capacity on 15 November, 1952. That Nehru choose Karan Singh whose Hindu communal outlook and antipathy to Abdullah were known is quite significant. It was part of the politics of manipulation in which Abdullah was to be depended upon to carry through India's wishes in Jammu & Kashmir but he was to be overseen by Karan Singh because he could not really be depended upon. Thus the Kashmiris had to accept as the first head of the state of J&K the scion of the family which they had fought for more than a century.

While Nehru was thus ensuring a constitution for J&K that would make that State a part of India (if not yet fully integrated into India) without completely alienating Sheikh Abdullah (and this is what democracy in J&K meant) the Jammu Praja Parishad took

up an agitation against the Delhi accord, supported by the Jan Sangh (which had taken birth in 1951) in the rest of the country. With rhythmic chants opposing 'do vidhan, do pradhan, do nishan' (two constitutions, two heads of state and two flags) in one country, they came out in full Hindu nationalist colours. We have seen earlier how this agitation upset Sheikh Abdullah, and led him to believe that the autonomy promised under article 370 would not be respected.

Deteriorating situation

A letter that Sheikh Abdullah had written to Nehru on 10 July, 1950, i.e. much before this crisis, reflects well how he felt about these matters:

"It is clear that there are powerful influences at work in India who do not see eye to eye with you regarding your ideal of making the Union a truly secular state.... I have several times stated that we acceded to India because we saw there two bright stars of hope and aspiration, namely Gandhiji and yourself, and despite our having many affinities with Pakistan we did not join it because we thought our programme will not fit their policy. If however, we are driven to the conclusion that we cannot build our state on our own lines, suited to our genius, what answer am I to give to our people and how am I to face them?"

The Praja Parishad advocated abrogation of article 370 and the end of any special status for J&K, which remain the principal plank of agitation by the Hindu communal forces to this day. It successfully managed to combine the resentment of the Jammu region about the insensitivity of the Kashmiri leaders to their perceptions with its Hindu Nationalist agenda, and Abdullah, as Balraj Puri remarks, did not improve matters by not being able to overcome his image as an exclusively Kashmiri leader.

Nehru was said to be quite upset about the Praja Parishad agitation. Had he been a principled champion of the terms of accession including the promise of referendum, he could have met them head-on. But his own strategy was to silently manipulate J&K into India by persuading or coercing the most popular Kashmiri nationalist, Sheikh Abdullah, who in Nehru's assessment could carry the Kashmiris in whatever he did. Nehru could therefore hardly meet the Hindu communalist challenge.

There is much speculation about who was responsible to what extent for the events that followed. We are not concerned with unravelling conspiracies. Suffice it to say that the Praja Parishad agitation and the mood it created in the country helped those who wanted to get rid of Sheikh Abdullah to do so. Shyam Prasad Mukherjee, President of the Jana Sangh that was articulating the Jammu Praja Parishad's agitation all over India, entered the Kashmir valley on 8 May, 1953 and was jailed by Sheikh Abdullah's government. He died in detention at Srinagar on 23 June of heart failure.

His death provoked a country wide reaction.

The Praja Parishad advocated abrogation of article 370 and the end of any special status for J&K, which remain the principal plank of agitation by the Hindu communal forces to this day.

Dismissal of Abdullah

Against this background, a vague allegation was concocted against Sheikh Abdullah that he was hobnobbing with foreigners, and otherwise plotting to end J&K's accession to India. On 9 August, 1953 he was dismissed from his post as Prime Minister of the State by Karan Singh, the *sadr-i-riyasat*, and was arrested. Nehru claimed to be unhappy about these happenings and blamed the Praja Parishad agitation for the situation, but found fault with Abdullah for having 'lost his moorings,' 'gone astray' and 'forgetting the principles on which he had long stood.' These 'principles' were nothing but the obligation to act as Delhi's instrument in bringing J&K into India. The suspicion that Abdullah was deviating from this role just at the crucial time when the Constitution of J&K was being drafted was undoubtedly an important motive behind the dismissal and arrest of Abdullah. Alastair Lamb says that the working committee of the Constituent Assembly, under Sheikh Abdullah's guidance, was actively discussing various options other than the kind of integration the Nehru's government envisaged as the duty of the J&K Constituent Assembly.

But, though Abdullah did prevaricate and vacillate a lot in the period 1947-53, more because he was hemmed in by forces he could not control than for any other reason, his own understanding of his role and of the Kashmiri aspirations was never what India believed - or pretended to believe - it to be. Abdullah made a comprehensive statement of his own perceptions, in his inaugural address to the J&K constituent assembly, an address which Ajit Bhattacharjea rightly describes as outstanding.

'After centuries, we have reached the harbour of our freedom' Sheikh Abdullah said, by means of the 'classical Kashmiri genius for synthesis, born of mutual respect and toleration'. Coming down to the task facing the Assembly, he said that the constitution of India had treated J&K differently, allowing it autonomy, and therefore, they had the full freedom to frame the constitution they liked, to further their development

'according to the best traditions and genius of the people.'

Secular aspirations dashed

Explaining why the Kashmiris had preferred India over Pakistan, he said that the Indian Constitution had set the country the goal of 'secular democracy based upon justice, freedom and equality for all without distinction.' This would, he believed, allay the fears of those who believed that the Muslims of Kashmir would not be secure in a Hindu majority country such as India. The national movement in Kashmir 'naturally gravitates towards these principles of secular democracy because the people here will never accept any principle that favours one religion or social group over another.' He even added the hope that the continued accession of Kashmir to India would help to defeat the rising forces of Hindu communalism in India by setting an example which would counter the logic of communalism. He then considered the possibility of 'making ourselves an eastern Switzerland', that is an independent neutral State 'which may seem attractive and would pave the way out of the present deadlock.' He rejected it solely on the practical consideration that it would be difficult to secure the frontiers of such a nation against 'so many countries', the principal of which were India and Pakistan. Evidently, if only India and Pakistan had agreed at that time to behave like the civilised nations that they both claimed they were, on the basis of their time-honoured traditions and principles, a free and independent Jammu and Kashmir could have been a reality, a point that all Indians and Pakistanis who consider themselves democrats should introspect about.

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In any case, the speech explains how Sheikh Abdullah and those Kashmiris who saw eye to eye with him perceived their situation and Abdullah's role. These were the 'principles he had stood for', howsoever ambivalently. It was only in Nehru's perception that Abdullah had stood for the principle of incorporating Jammu and Kashmir into India. And it is for deviating from this wretched principle he never stood for that he was punished.

From 1953 to 1968 Sheikh Abdullah was most of the time in detention. He was released on 8 January, 1958 and rearrested on 30 April, 1958. He was again released on 6 April, 1964 and rearrested on 8 May, 1965. He was again released on 2 January, 1968. In 1971 he was externed from J&K. His loyal associate Mirza Afzal Beg was in prison almost as long. Neither of them was ever tried, nor convicted of any crime. In 1953 his arrest led to a major agitation by the outraged people of the Kashmir valley, which was suppressed violently by the government of Bakshi Ghulam Mohammad who replaced Sheikh Abdullah as Prime Minister. Nearly 60 people died in police firing. Ghulam Mohammad Sadiq and Mir Qasim, two National Conference leaders who toed Bakshi Ghulam Mohammad's line, were almost lynched by a twenty thousand strong crowd near Shopian. A decade later, in a replay of the drama, G.M. Sadiq as Prime Minister would arrest Bakshi Ghulam Mohammad on vague charges and another half a decade later Mir Qasim would be encouraged by Delhi to oppose and weaken Sadiq.



Without comments

"Maltreatment with Kashmir Prisoners in out of state jails."

(Srinagar Times, January 22, 1991)

Srinagar:- The acting general secretary of Islami Jamiat Tulaba has said in statement that everybody aware of the tortures inflicted on our arrested Kashmiris in the interrogation centres of Jammu and Kashmir. We have seen scores of our brethren entering the security vehicles alive and have laid them in their graves by our hands a few days later. In several incidents we have heard about deaths in these torture house but could not know what happened to the dead body. Hundreds of Kashmiris were arrested in a normal healthy state but returned mentally and physically disabled and thousands are such who withstood all those tortures and are still alive in the far flung jails of India as captives. Incidentally we felt happy on hearing that someone has been transferred to jail because we conceived that he has got rid of the tortures of interrogation center. But this happiness was short lived because experience shows that they are sent there to live a more miserable life.

Several Kashmiris are kept in the Satna jail (Madhya Pradesh) the superintendent of this jail is one Mr. Srivastava who is more a hangman than jailor. When the relatives of the prisoners go there to meet them they get nothing. Although they take with them the permission of High court and home secretary but still the jailor turns them back on one pretext or other. Recently relatives of more than a dozen prisoner had to return ultimately without success. Now if at all somebody is fortunate enough to enter the jail premises of that jail he is kept at least six feet away from the prisoner where it is difficult to hear one another least of all to touch the near and dear one and this nominal meeting is only of a few minutes duration. The mother of a prisoner is now on her sick bed since when she has returned after going thousands of miles to Satna and meeting no success in seeing her son. When this is the treatment with the visitors the conditions of the prisoners can be imagined.

(The Kashmir Dossier, March 1991. By Committee for Initiative on Kashmir, New Delhi.)

VII THE POLITICS OF INCORPORATION - II (1953-1987)

“There has been a persistent policy of denying Kashmir a right to democracy. One party rule has been imposed on the state through manipulation of elections.... The basic premises of this policy are that the Kashmiris are unfit for democracy, or (that they) do not deserve it, and that democracy and the national interest are incompatible. These premises are not only an insult to the people of Kashmir but to all democratic sensibility”

Balraj Puri

Kashmir: Towards Insurgency

The dismissal of Sheikh Abdullah was facilitated by some of his own cabinet colleagues led by Bakshi Ghulam Mohammad, who split the National Conference and emerged as a pro-India group committed to the integration of J&K into India. The whole operation was planned and executed by Bakshi Ghulam Mohammad, D.P. Dhar (a Kashmiri Pandit who was deputy Home Minister in Abdullah's cabinet), Sadr-i-riyasat Karan Singh and the Government of India at Delhi. Sheikh Abdullah in his memoirs says that D.P. Dhar 'acted as the special agent of Delhi'. Adding that Dhar's role in the affair was disgusting, he recalls humorously an old Kashmiri saying that 'when the Dhars thrive, Kashmir declines'. Dhar would later become a very influential advisor of Indira Gandhi. One of his ancestors, incidentally, was personal secretary to Gulab Singh, the first Dogra ruler.

' Parliamentary democracy ' in Kashmir

Bakshi Ghulam Mohammad was corrupt and autocratic. The Centre soon started pouring in money in the name of development to J&K, and the State's Prime Minister and his relatives helped themselves to this bounty. His regime, says Ajit Bhattacharjee, was jokingly called BBC-Bakshi Brothers Corporation. But Delhi did not mind because he was Delhi's man. He would keep his faction of National Conference in favour of integration. His government would give the necessary concurrence to the Union to

issue orders extending its powers in J&K. The first such order was the Constitution (Application to J&K) Order, 1954, which extended the list of subjects on which parliament could legislate for J&K. Through this order, which was subsequently amended to add more provisions, much of the legislative power of parliament has been gradually extended to J&K. Parliament can now legislate for J&K for all but six items in the Union list. In the same year, the Constituent Assembly of J&K affirmed the legality of the State's accession to India. In 1958, the Indian Administrative Service, Indian Police Service and all other Central Services were extended to J&K through a Presidential order.

After Sheikh Abdullah's arrest, his associate Mirza Afzal Beg formed the Plebiscite Front on 9 August 1955 to oppose Bakshi's pro integrationist National Conference. Beg too was in and out of jail, much like Abdullah. On 17 November, 1956 the constitution of Jammu and Kashmir was adopted, declaring unambiguously that 'the State of J&K is and shall be an integral part of the Union of India'. Sheikh Abdullah protested from prison, but that he had been imprisoned precisely to facilitate this. And the UN security council which had the plebiscite resolutions before it also expressed its disapproval and said (on 24 January, 1957) that the declaration would in no way constitute a valid 'disposition of the State in terms of the UN resolutions.' But it was this contrived acceptance of accession by the J&K Constituent Assembly that would be later on exhibited by India as proof of popular acceptance of accession.

Elections under the new Constitution were held in 1957 and Bakshi Ghulam Mohammad's National Conference won. But there was contest only in 32 of the 75 seats. The remaining candidates, mostly in the Kashmir valley, were returned unopposed. It was 'Democracy through intimidation and terror' to quote the title of a later book by Premnath Bazaz concerning Kashmiri politics. In the 1962 elections Bakshi's party again won, taking 70 out of the 75 seats. But again there was contest in only 41 out of the 75 seats. It was with reference to this election that Nehru is said to have commented to Bakshi Ghulam Mohammad that it would have been better if he had lost atleast a couple of seats to bonafide opponents. But of course Nehru's government was the main beneficiary of this terror regime. This travesty of parliamentary elections was to exhibit itself again in 1967 and 72. And yet, India has consistently argued in the UN that plebiscite is not required to be held in J&K because the people have endorsed the accession in election after election.

But India's strategy has been to rely on a chosen pro-integrationist; give him all support and licence, including the freedom to rig elections and maintain himself in power; give him the opportunity to swindle the massive development funds being sent to J&K; give him the free hand required to deal with his opponents through unsubstantiated allegations of pro-Pakistan activity; and give him the freedom to violate all the norms of the rule of law in putting down

any protest or agitation.

Balraj Puri quotes Nehru as having said to him: 'we have gambled at the international stage on Kashmir and cannot afford to lose it. Democracy and morality can wait'

As Balraj Puri says, there was a general consensus in this matter among the political parties, the press and the dominant the intelligensia of India, though all of them may not have approved of the extent to which the Congress rulers took matters. Kashmir was never seen from the point of view of the Kashmiris but from the point of view of Indo-Pakistan rivalry or the communalism - secularism polarity. Someone who would keep Pakistan and the Muslim communalists at bay was what everyone wanted in Kashmir. Such a person had to be strengthened and supported in the interests of India and secularism. He may be corrupt, he may be autocratic, he may even be unpopular. That did not matter. Balraj Puri quotes Nehru as having said to him: 'we have gambled at the international stage on Kashmir and cannot afford to lose it. Democracy and morality can wait.' And even Jayaprakash Narayan, a stated supporter of Kashmiri autonomy, said that he did not wish that an opposition party should develop in the State 'so long as it was the subject of an international dispute.' All attempts to create an opposition to the National Conference, Balraj Puri recalls, were discouraged not only by the Delhi Government but also the opposition parties and the Press in the name of preventing the weakening of the secular and nationalist forces in J&K. When G.M Sadiq split the National Conference of Bakshi and formed the Democratic National Conference in 1957, he was pressurised to reunite with the National Conference and when he did so in 1961 major newspapers such as The Hindu, the Indian Express and Hindustan Times complimented him for the patriotic act. Later in 1967 Bakshi revived the National Conference after Sadiq had merged his faction in the Congress. He too was pressurised to get back home and when he did so he was hailed by the Press for helping to consolidate the Nationalist forces. Most of the Parliamentary parties were reluctant to develop their branches in the valley, again with the argument that it would weaken the secular forces. When the Praja Socialist Party tried to enter the valley it was not only physically attacked by Bakshi's men but Nehru also accused them of 'joining hands with the enemies of the country.'

There is actually a paradoxical, or rather one should say hypocritical, attitude involved here. The people of Jammu and Kashmir are supposed to have voluntarily opted to be in "secular, democratic" India rather than in autocratic Pakistan. This is an article

of faith in India. Leaving aside whether India is truly secular and democratic, what is striking is that J&K was not even allowed to develop normal institutions of parliamentary democracy. Neither Kashmir's integration into Indian democracy nor its emotional integration with India was ever visualised by those who claimed to believe that India's inherent superiority entitled it to J&K. All that was attempted was the integration of J&K into the Indian State. And for this, all that was needed was an agent on behalf of India who would execute the task by hook or crook. No parliamentary opposition to him was allowed to develop. And any opposition that developed was dubbed anti national. The rulers of Kashmir in fact started using 'the threat of secessionist forces' in the valley as a lever to get from Delhi more funds and greater impunity for their criminal acts, according to one Kashmiri academic. To be treated in this fashion can only cause a deep sense of insult to any people who respect themselves and their culture. The alienation that everybody is talking about these days has its roots in the manipulative and coercive methods adopted by the Indian rulers to force J&K into India.

The alienation that everybody is talking about these days has its roots in the manipulative and coercive methods adopted by the Indian rulers to force J&K into India.

Sheikh Abdullah was released briefly from prison in 1958. By that time, the State Constitution had been adopted and it declared the finality of the State's accession to India. Sheikh Abdullah had opposed this declaration from jail and therefore as soon as he came out he began to talk of the plebiscite that India had promised, and which by that time had been the subject of many UN resolutions. Bakshi Ghulam Mohammad and D.P. Dhar once again ganged up to accuse him of antinational activities. This time the allegation was that he was receiving Pakistani funds for his Plebiscite Front. He and his associates such as Mirza Afzal Beg were again jailed on the night of 29 April, 1958. They were also charged with the offence of conspiracy to overthrow the lawful authority. A special court was set up the same year to try them, which committed the case for trial in 1962. But they were finally discharged without being tried six years after their arrest. They came out on 8 April, 1964. They had been arrested by the Bakshi regime and were discharged after Sadiq came to power. Both were political acts which had nothing to do with law or justice.

In the meanwhile the corruption and nepotism of Prime Minister Bakshi Ghulam Mohammed of J&K had become embarrassing for the Prime Minister of India, and he was eased out on 11 October, 1963 to be replaced by his own protegee, one Khwaja

Shamsuddin, who was himself replaced by G.M. Sadiq, an old associate of Sheikh Abdullah on 1 March the next year. None of these changes had anything to do with the wishes of the legislators, let alone the people. They were imposed by Delhi. But, while Shamsuddin was acceptable to Bakshi, Sadiq was not. As the legislators were all the hand picked men of Bakshi Ghulam Mohammad, he threatened to propose a vote of no confidence against Sadiq. On the advice of the Delhi bureaucracy, J&K's Sadr-i-riyasat put pressure on Sadiq to arrest Bakshi to prevent the motion that would 'destabilise' the State. Bakshi's corrupt practices came in handy for this purpose, though the rulers of Delhi had never objected to his avarice earlier. Bakshi was arrested and came out after eleven weeks in jail, without at all having been charged and tried. Another norm of parliamentary democracy was thus flouted to safely instal the central government's chosen man in Srinagar.

Statutory amendments, popular resistance

During 1964, a series of statutory amendments were made with the approval of the very pliable State government. The process was actually initiated while Bakshi was Prime Minister. But it was completed under Sadiq. The head of State would thereafter be called Governor and not Sadr-i-riyasat and would be nominated by the President and not elected by the J&K legislature. The Prime Minister of the State would thereafter be called Chief Minister. Article 356 of the Constitution of India which provides for the imposition of President's rule, was extended to J&K. Members of the Parliament from J&K would thereafter not be elected by the State Assembly but directly by the people as in the rest of India. The provisions concerning appointment of Governor and imposition of President's rule were to be used opportunistically in the 1980s with disastrous consequences. Parallel with these changes that brought J&K more completely into the Union of India, the National conference led by Sadiq and Mir Qasim was converted in 1965 into the Kashmir branch of the Congress party. This is symbolic, for the Indian State and the Congress party were always synonymous in Kashmir. This series of stage-managed events gave rise to public outrage in the Kashmir valley. There were violent protests and demonstrations. Following Sheikh Abdullah's call after his release from jail those Kashmiri leaders who had become Congressmen were socially boycotted in the valley. This is symbolic, for the Indian State and the Congress party were always synonymous in Kashmir. This series of stage managed events gave rise to public outrage in the Kashmir valley. There were violent protests and demonstrations. Following Sheikh Abdullah's call after his release from jail those Kashmiri leaders who had become Congressmen were socially boycotted in the valley.

Criticising these amendments to the constitutional set up, the J&K Basic Rights (Protection) Committee of former Chief Justice Mufti Bahauddin Farooqi has, in a note published in 1990, pointed out that they completely changed the basic structure

of the J&K constitution which is built around the federal provisions of article 370: and constitutional law of India accepts that constitutional amendments cannot alter the basic structure. 'But would any one in India listen?' they ask in desperation. Legal analysts such as A.G. Noorani have also questioned whether the concurrence of the State government to presidential orders extending powers to the Union beyond the terms of the instrument of accession can at all be given once the State Constituent Assembly has ceased to exist. Article 370 says that every such concurrence given by the State government must be placed before the Constituent Assembly, which presupposes that the Constituent Assembly has not ceased to exist. In either view the orders passed by the President of India in 1964-65 would appear to be null and void. It appears that all that has happened in J&K in the last three decades is not only ethically obnoxious, but much of it is plainly untenable in law.

Abdullah arrested again

Before long Sheikh Abdullah again got arrested. On 5 February, 1965 he went to Mecca and from there on a tour of Islamic countries. He met and spoke to many foreign dignitaries. One of them was the Chinese premier Chou-en-Lai who expressed sentiments supportive of Kashmiri self determination. The government of India immediately told Abdullah to come back and as soon as he came back he was imprisoned. Ajit Bhattacharjea remarks that Abdullah need not have come back for there were many countries that would have given him a passport if India cancelled his. Pakistan, according to Alastair Lamb, actually offered him a passport. Yet he came back honourably when India asked him to come back. But the Indian government did not behave equally honourably. Having deprived him of the opportunity to "conspire with foreign governments," he could have been allowed to live freely in India. Instead he was imprisoned for three more years. This arrest was again followed by large scale disturbances in the valley. Many Plebiscite Front workers were arrested in a police crack down.

Sadiq, now the Congress Chief Minister of J&K, consolidated himself by winning the 1967 assembly elections in the same manner that his deposed predecessor had won in 1957 and 62. 118 nominations were rejected leading to unopposed election in 39 of the 75 constituencies. Sadiq died on 12 December, 1971 and Mir Qasim became the next (congress) Chief Minister of J&K.

The years 1971 and 1972 gave the Indian rulers one more chance to prove their democratic credentials in Jammu and Kashmir. There were elections to Parliament in 1971, and to the J&K Assembly in 1972. Sheikh Abdullah was now again free and his Plebiscite Front was ready to take on the Congress party in the State. If a real contest had been allowed, than perhaps the people of the J&K, in particular the Kashmiris, would have had a taste of the parliamentary democracy which was

supposed to be one of the attractions that India held for them as against Pakistan. But it was not to be. As Sheikh Abdullah got ready to go to Srinagar from Delhi on 8 January, 1971 to set in motion the Plebiscite Front's preparation for the Parliament polls, his flight was cancelled in the last moment because of a bomb scare which turned out to be false. The real reason must have become evident to Abdullah the next day when he and Beg were served orders prohibiting them from entering J&K. The State Assembly of J&K then passed a law banning the Plebiscite Front's participation in the polls. This was repeated in the Assembly polls of 1972. With the main opposition party barred from participation, the Congress won 57 of the 75 seats. (Sheikh Abdullah recalls in his memoirs, however, that his followers took symbolic revenge by setting up a journalist, Shameem Ahmed Shameem against Bakshi Ghulam Mohammad and defeating him roundly).

Jamaat-e-Islami encouraged

Interestingly, having banned the Plebiscite Front of Sheikh Abdullah, the Congress Party deliberately encouraged the Jamaat-i-Islami to participate in the elections and win five seats. In the Kashmir valley, ever since the 1950s, there was no question of any body winning elections unless they were 'allowed' to win by Delhi's local favourites. Such was the terror and goondaism encouraged by the rulers of India. And therefore, it makes sense when Mir Qasim (the Chief Minister in 1972) says in his autobiography (written later in an introspective mood) that '*to frustrate further attempts by any group with support from Abdullah to contest against the Congress, the Congress took the help of the Jamaat-i-Islami 'to fill the vacant space,' and 'guaranteed its success in five constituencies'.*

This ugly habit of encouraging communal forces to fill the vacant space created by the suppression of secular or not-so-communal opponents is a trait that was to be repeated by the Indian rulers later too. In fact according to one Kashmiri academic, ever since the sixties, Bakshi Ghulam Mohammad deliberately encouraged the orthodox strain of Muslim politics in the valley represented by Mirwaiz Farooq against Abdullah. *For, Kashmiri nationalists are inconvenient for the Indian State. Their arguments nationalists a logical and moral force which the official Indian stand cannot match. The Jamaat-i-Islami is a more comfortable enemy. With it as the enemy the Indian State can pretend that it is a bastion of secularism fighting the forces of communal reaction.*

Meanwhile there were two wars that India and Pakistan fought, the first in 1965 and the second in 1971. The first was occasioned by the hopes inspired in the hearts of the Pakistani rulers by the events in the Kashmir during 1964 - 65. We have already spoken of the popular upsurge that shook the valley in protest against the constitutional and political changes that were effected in that period, and against

the rearrest of Sheikh Abdullah and Mirza Afzal Beg. There was another major disturbance in that period, caused by the mysterious disappearance of a relic, the prophet's hair, from the Hazratbal Shrine in Srinagar, on 26 December, 1963. This gave rise to public indignation. There was a lot of violence especially against the property of the Bakshi family. Though the relic was returned to its place on 3 January, 1964 as mysteriously as it had disappeared, the public indignation and disturbance did not subside until it was publicly verified by respected Muslim divines led by Moulana Masoodi, (a former general secretary of the National Conference, as well as a member of parliament, until Sheikh Abdullah was removed.) It was after this Hazratbal crisis that Shamsuddin was removed and G.M. Sadiq was brought in to rule J&K.

All these events inspired Pakistan (or atleast its Foreign Minister Zulfikar Ali Bhutto) to hope that if it attacked India, the Muslims of Jammu and Kashmir would rise in revolt against India and the coveted territory would be its own. It tried and failed. The uprising it hoped for did not take place, and Indian army managed to push it back. *It appears that neither the Indian rulers nor the Pakistani rulers have ever really understood the Kashmiris. For the Kashmiris their Islamic identity is inseparable from their composite Kashmiri identity. Pakistan has tried to take advantage of the former and India of the latter. They have both failed. India will find it very difficult to succeed hereafter too, for it has never respected what it sought to appropriate. Pakistan, evidently, still hopes to succeed.* They could both learn from the simple explanation given by Maulana Masoodi in a press release in 1953 when attempts were being made to topple Sheikh Abdullah: 'If the Kashmiris rose as one man against Pakistan in 1947 it was because they saw that that country wanted to force them into a position which they were not prepared to accept. If today demands are made in India which endanger the present autonomous position of the State then the Kashmiris should not be blamed if they start thinking of the third alternative of independence'.

Later there was another war over Bangladesh in 1971 from which India emerged stronger. Though the war was not about J&K it seems to have given the feeling to Kashmiri leaders that India is militarily unassailable.

Indira - Abdullah Accord

Soon after the 1965 war, efforts were made in India to bring the rulers of Delhi and Sheikh Abdullah to the discussion table. There were a few people in India, Jayaprakash Narayan being the most prominent of them, who stated that while J&K should remain in India, its autonomy must be respected, and that the problem must be resolved by respecting the aspirations of the Kashmiris instead of describing them as anti-national. With the failure of the Pakistani attempt in 1965 to settle the territorial

dispute by force, and the later dismemberment of Pakistan along linguistic - ethnic lines that belied the communal philosophy that religion is the strongest bond between people, the efforts of these persons to initiate a dialogue between Sheikh Abdullah and the Union of India gradually took effect. The Indian rulers' stand was that Sheikh Abdullah should unequivocally accept J&K's accession to India. Until he did so he was denied the minimum political freedom of contesting elections for the State Assembly.

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In fact he was denied the right of personal liberty for a very long time for this and no other reason. This utterly indefensible violation of democratic norms gave rise to no major protest in this country whose rulers and political parties pride themselves so much on their 'democratic' traditions and ideals. And yet, the Indian rulers have never ceased to exhibit our democratic political system as the superior virtue that entitles them to claim the loyalty of the Kashmiris. There can certainly be no greater hypocrisy than this.

The accord that Abdullah finally entered into with Indira Gandhi has done a lot of damage to his prestige in the valley. On the one hand, he was an open critic of the Simla agreement that made the fate of Jammu and Kashmir a bilateral issue between India and Pakistan. He declared that these countries cannot decide the fate of J&K over the heads of the people. He declared, as soon as he was allowed to enter Kashmir after the 1972 elections, that self-determination was a right of the people of J&K. He insisted in his talks with Indira Gandhi and Swaran Singh that the clock must be turned back to the pre-1953 days, which meant that all the constitutional chicanery indulged in by India after his first arrest must be set at naught. And yet he finally endorsed the agreement worked out between Mirza Afzal Beg on his behalf and Parthasarathy on the Government of India's behalf on 13 November, 1974. The accord was announced by Indira Gandhi on 24 February, 1975. It did not restore the pre-1953 position, nor did it undo anything that was done afterwards. It affirmed that J&K was a constituent unit of India. It added that J&K's relations with the union would be governed by article 370, which did not mean much because all that was done after Sheikh Abdullah was put out of the way, was done in the name of article 370. In his memoirs Sheikh Abdullah says that he had wanted article 370 to be maintained 'in its original form'

As the article was never actually amended, what he probably means is that he wanted its spirit to be maintained. But this, is not what came out of the accord. Perhaps to explain this Sheikh Abdullah adds in his memoirs that 'there was no change in our objective, but only in the strategy.'

Elections of 1977

On 25 February, 1975 Sheikh Abdullah was elected leader by the Congress Legislature Party of J&K Assembly and he became Chief Minister. But he had no intention of joining the Congress Party. He revived the National Conference in July, and proved that his popularity was intact in the Assembly elections of 1977. Practically all observers have described these elections as the first and only free and fair elections in the State. National Conference won 47 of the 75 seats, including 40 out of the 42 in the Kashmir valley.

Sheikh Abdullah passed away on 8 September, 1982, and his son Farooq became the Chief Minister. The Congress party in the state engineered defections in the National Conference to remove him and put his brother-in-law Ghulam Mohammad Shah (known also as Gul Shah) in the saddle. This was after Farooq Abdullah had led the National Conference to yet another victory in the Assembly Elections of 1983, capturing 39 out of the 42 seats in the valley. In these elections, Indira Gandhi outdid the BJP in her communal electioneering in the Jammu region and got 25 seats for the Congress Party.

Having won the elections, Farooq Abdullah took the National Conference into the Indian opposition block. He attended the Vijayawada conclave of the opposition parties on 31 May, 1983, and himself organised the next conclave at Srinagar. But loyalty of J&K to India always meant loyalty to the Congress Government at the Centre. Allegations of encouraging secessionist and pro-Pakistan elements in the valley were levelled against Farooq as usual. Gul Shah split the National Conference and took away 13 legislators who, together with the 26 MLAs of the Congress would form a majority. But Governor B.K. Nehru refused to dismiss Farooq's government. And so Indira Gandhi shifted him, and brought Jagmohan as Governor of J&K in April 1984. Jagmohan dutifully dismissed Farooq Abdullah's government on 2 July and Gul Shah became Chief Minister.

First spell of Jagmohan

But Gul Shah did not last long. On 6 March, 1986, the Congress legislators withdrew their support, whereupon Jagmohan dismissed Gul Shah's government and imposed

Governor's rule. He ruled until Farooq Abdullah made up with Rajiv Gandhi in late 1986. He would again rule the state as Governor in 1990, with disastrous consequences. The Muslims of Kashmir, without exception, regard Jagmohan as a Hindu communalist who has no business to hold office under a secular State. One cannot blame them. Apart from his actions which speak for themselves, his writings and speeches indicate that he believes in a variety of 'nationalism' (chauvinism) in which there is no space for the assertion of the aspirations of religious and ethnic minorities. He revealed his dislike of Muslims by casing out all Muslims from the Governor's office in Srinagar. He revised the job reservation scheme so that the quota for Muslims was cut down to half. He then banned the slaughter of sheep on Janmashtami day, allegedly in deference to the sensibilities of the Hindus, though there is no such ban any where in the country.

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If his purpose was to enrage the Muslims, he succeeded. Qazi Nisar Ahmed of Anantnag, who was called the Mirwaiz of South Kashmir, slaughtered a sheep on the festival day in front of a large crowd. Jagmohan also facilitated in his capacity as Governor an order from the President of India extending article 249 of the Indian constitution to Jammu and Kashmir, whereby the Rajya Sabha with a 2/3 vote can resolve that parliament shall legislate on any matter whatsoever for this State 'in the national interest'. A Hurriyat conference leader jokingly said to us that if and when Kashmir is liberated, Pakistan will surely award its highest civilian decoration to Jagmohan for successfully completing the alienation of the Kashmiri Muslims from India.

A Hurriyat conference leader jokingly said to us that if and when Kashmir is liberated, Pakistan will surely award its highest civilian decoration to Jagmohan for successfully completing the alienation of the Kashmiri Muslims from India.

Farooq Abdullah's rule was restored on 7 November 1986 after he capitulated to the Congress and agreed to share power with them. He had learnt the lesson that 'any one who wants to form a government in Kashmir can't do so without sharing power with New Delhi' (as he himself said to a journalist two years later). He entered into a power-sharing accord with Rajiv Gandhi and was again sworn in as Chief Minister. This humiliating accord, was once again hailed by the Indian media and dominant political opinion as an event that united the secular-nationalist forces in the valley.

This event in fact finished the National Conference as a popular force in Kashmir. The intelligent Kashmiri couldn't but note that whereas in Tamil Nadu, Andhra Pradesh and West Bengal non- Congress governments could survive and rule, that would not be allowed in J & K. If safeguarding the influence of the National Conference in the valley was what was desired, then there could have been nothing more inimical to it than the way Farooq Abdullah was made to crawl before New Delhi to get back his gaddi. The expectation that after this the National Conference would continue to be as popular as ever in the valley reflected an attitude of contempt for the Kashmiri people, which they could not but find insulting.

1987 'Elections'

But the last act in ensuring the elienation of the Kashmiris the last in the series of cynical and criminal acts that started with the dismissal of Sheikh Abdullah in 1953- was yet to take place. That was the rigging of the 1987 elections.

The elections took place on 23 March 1987. The Congress I - National Conference combine was opposed by the newly formed Muslim United Front (MUF), a group of 13 parties including the Jamaat-i-Islami. These groups, as the name indicates, represented political tones based on religion (Islam). Such a trend had always been there in the valley, ever since 1930, and had found expression in movements and individuals opposed to Sheikh Abdullah. The successive Mirwaiz of Kashmir, Maulvi Ahmedullah Shah upto 1931, his nephew Mohammad Yusuf Shah from 1931 till his departure for Pakistan in 1947, and Mohammad Farooq from 1962 till the 1980's were the principal representatives of this trend. (Mohemmad Farooq's successor Omar Farooqi is now president of the All Party Hurriyat Conference). While not lacking in popularity this Islamic trend never equalled the appeal of the secular nationalist trend. It was only after New Delhi's rulers, with a series of acts of cynical manipulation and coercion, destroyed the National Conference's appeal and imposed humiliating accords on it that the Muslim communal trend in Kashmiri politics, now organised in the MUF, could hope to do well at elections. They did quite well, getting about 30% of the votes, according to one estimate. But they were declared elected in only 4 seats as against the 36 seats won by the National Conference. Many of their candidates lost by suspiciously narrow margins, and it is widely believed

that the counting of votes was manipulated. (This was documented even by the Indian press, such as *India Today*.) Some MUF candidates who were told at the counting table that they had won were declared defeated by the returning officer. Many such victims of this latest episode in J & K's saga of electoral fraud later became leaders of the militant movement. The most prominent of them is Sheikh Salauddin, the present head of the Hizbul Mujahideen. Salauddin contested from the Amirakadal constituency in Srinagar city and won, but was declared to have lost to a National Conference candidate.

Most people in Kashmir regard this travesty of an election as the breaking point which signified to the youth that there was no solution except the gun.

Most people in Kashmir regard this travesty of an election as the breaking point which signified to the youth that there was no solution except the gun. It is true that isolated incidents of armed violence had taken place earlier too. And Jammu Kashmir Liberation Front (JKLF) had carried out certain actions such as the killing of Ravindra Mhatre at Birmingham in UK. But it was after the series of incidents culminating in the electoral malpractices of 1987 that a general mood of militancy overtook the valley.



Without comments

Unparalleled Curfew

For more than three and half months now, except for a break for few days, the Srinagar city and other major towns have been under curfew by and large. It used to be relaxed at very odd hours, i.e. between 5 to 8 or 9 in the morning. Since 7th April to 19th April, 90 there was practically no relaxation at all. Result is that the civil life is totally disrupted. Shops hardly open, banks, schools, courts etc. remain closed and no mail is delivered, nor are the government treasuries functioning. Traders cannot transport the essential commodities and medical drugs due to curfew. The people in the valley neither have the cash nor the opportunity to be able to purchase anything. Mobility of people in the valley is almost at a standstill. Even during the curfew relaxation period for few hours since 20th April, 90, the vehicles are not permitted on the road. The people are not allowed even to carry their sick brethren to the hospitals in most of the cases. Wherever we went, slogans used to be raised :- "We want anti-people curfew raj to be ended. What to say our day-to-day necessities of life, we cannot purchase even white shroud for our dead victims." We did not find any government machinery involved in the supply of medicines or essential commodities to the people to mitigate the rigors of curfew. In fact we found many persons reluctant to come out of their houses during curfew relaxation hours as they feared unprovoked firing on unarmed people by the security forces. People in the valley say : "There is more terrorism in Punjab than in Kashmir and a large number of people are killed there in comparison to Kashmir, yet the government do not impose such a continuous curfew there! But the government is imposing this continuous curfew here because they want to punish the entire population and wishes to starve them."

Report on Kashmir situation by PUCCL & CFD, 1990

VIII MILITANCY IN THE VALLEY : ORIGINS AND PERCEPTIONS

“The movement for the right of self determination continued through four decades of suppression and oppression. It had its ups and downs but the dedicated youth and experienced elders managed to keep the standard of resistance aloft...”

“By the year 1987 the Kashmiri youth had come to the conclusion that they could not go on waging the peaceful struggle for their promised right of self-determination for eternity. The world had almost forgotten the Kashmiris. The global powers had their own changing interests in which they were pre-occupied... this had the effect of encouraging intransigence and obduracy in the attitude of India...”

“Having thus realised that they could not win their inalienable human right of self determination... through peaceful means, the youth of Kashmir took to the path of armed struggle.”

“Thus it was under compulsion that the peaceful movement for restoration of the right of self-determination was transformed into an armed struggle.”

The Institute of Kashmir Studies.

This is the self perception of the Kashmiri struggle, whether anybody likes it or not. The major fact about the 'unrest' in J & K is that the people perceive it as a continuation of their hitherto peacefully expressed aspiration for self-determination, which is a universally recognised political right, apart from having been promised specifically to J & K not once but many times, not in one forum but in many forums.



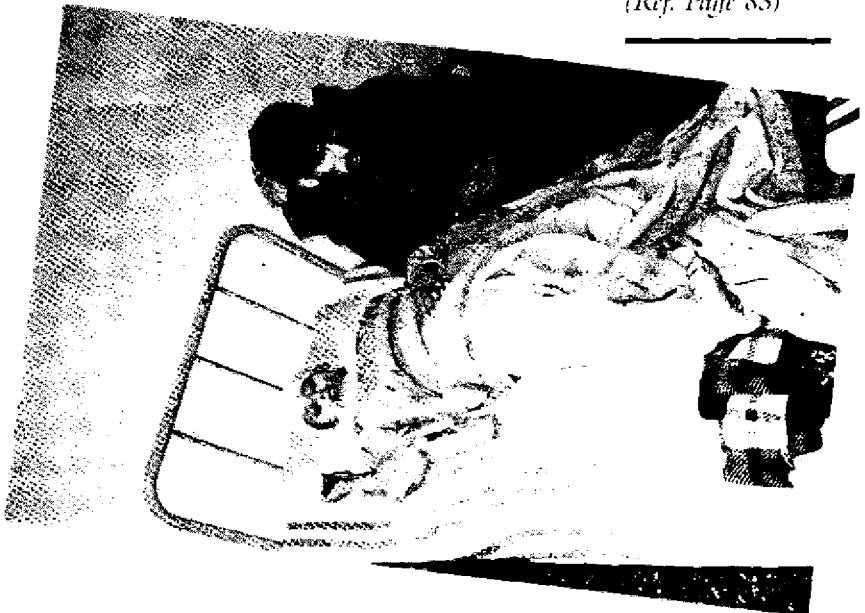
A lifetime
of despair --
begins with
a senseless
bullet.

(Ref. Page 82)



Bewildered
agony --
and after
the pain, terror.

(Ref. Page 83)





A trust betrayed--
raped and
humiliated,
a Gujjar woman.
(Ref. Page 92)



The torment of
memory --
raped and
brutalised,
a Gujjar woman.
(Ref. Page 92)

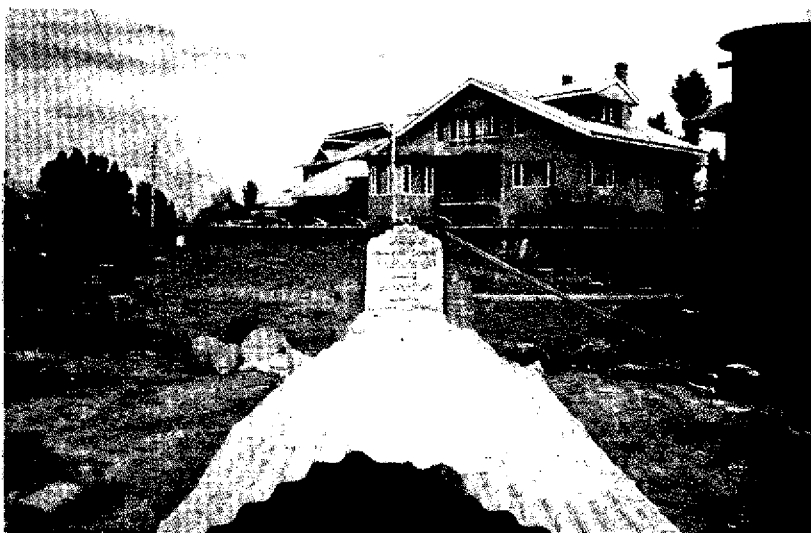




Bare existence --
a Kashmiri Pandit
transit camp.
(Ref. Page 110)



Rare memorial
Ghulam Nabi
Lone (30),
engineer,
killed at work.
(Ref. Page 79)





Forgotten
sanctity -- the
Char-e-Sharief
shrine, today.
(Ref. Page 87)



Systematic
destruction -
after the terror,
desolation.
(Ref. Page 86)





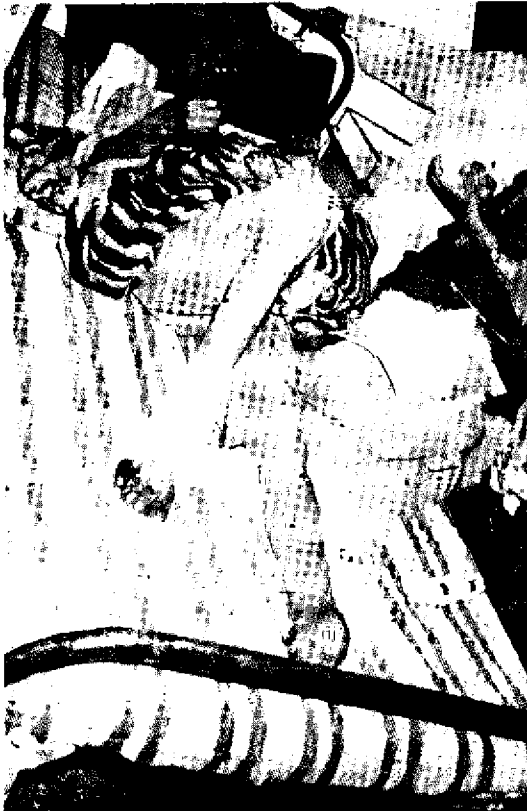
◀ Militants --
lives twisted,
cut short.
(Ref. Page 70)

▼ Massacre of
innocents --
shot in
retaliatory firing.
(Ref. Page 82)





Nazir Ahmed
Sheikh (25) --
hours before
his feet were
amputated.
(Ref. Page 71)



'Caught in
the crossfire'
-- an innocent
bystander.
(Ref. Page 78)



Absence of
humanity --
recovered from
the Jhelum river.
(Ref. Page 74)



The crackdown --
age is no bar.
(Ref. Page 84)





Beyond mercy --
death in custody.
(Ref. Page 74)



Interrogation --
the brutal results.
(Ref. Page 74)



Militancy, or at least Indian allegations of militancy, predate 1987, as we said earlier. India has alleged that a terrorist outfit called Al-Fatah was active in the valley in the late sixties. There was an incident of hijacking of an IA plane Ganga to Lahore by two Kashmiri youth on 30 Jan. 1971. They claimed that they were activists of Kashmir National Liberation Front (also described as Jammu Kashmir Liberation Front), but not only the Pakistani Government but also G M Sadiq, Chief Minister of J & K, said that it was an Indian intelligence plot. Alastair Lamb thinks that it must have been a drama enacted by India to ban Pakistani overflights on Indian territory which would have a major impact on Pakistan in the ensuing East Bengal crisis. Whatever the truth of all these matters, these incidents were not linked to any ground level militancy in Kashmir.

The major fact about the 'unrest' in J & K is that the people perceive it as a continuation of their hitherto peacefully expressed aspiration for self-determination, which is a universally recognised political right, apart from having been promised specifically to J & K not once but many times, not in one forum but in many forums.

In the eighties various armed militant groups seem to have come up, in Indian J & K, Pakistani J & K and among the emigre Kashmiris in UK. The names of Amanullah Khan and Maqbool Butt became known in this connection. It was in UK that their first major action took place, on 6, February, 1984. Ravindra Mhatre, an Indian Assistant High Commissioner in Birmingham, who had been kidnapped on 3 February with the demand of release of prisoners held in India including Maqbool Butt, and one million pounds in cash, was killed three days later. Maqbool Butt, had been wanted in a 1966 case of murder (in the course of an armed robbery), had been caught, had escaped, had been held again in 1976, convicted to death by hanging but not actually hanged. He was then hastily hanged on 11 February 1984, as if to extract revenge for Mhatre's killings. This led to much resentment and protests in Kashmir, and the judge who had sentenced Butt to death would be killed in one of the first acts of militancy in 1989. 11 February was to become a martyr's day annually commemorated in the valley.

It was in the course of these events that the name of JKLF and its leader Amanullah Khan, who belonged to Pakistani J & K, became well known. It was the JKLF which

later (in December 1989) kidnapped Dr Rubiya, daughter of Union Home Minister Mufti Mohammad Sayeed, and got five of its imprisoned activists released. And it was the JKLF that dominated the scene of militancy in Kashmir until 1992. But various other groups known as Allah Tigers, Al-Umar, Al-Barq, Al-Jihad, Al-Hadid, Al-Umar Mujahideen, Muslim Brotherhood, Hizbul Mujahideen, Muslim Janbaz, Jamaat-ul Mujahideen, Ikhwan-ul-Muslimeen, Harqat-ul-Ansar and the latest Al-Faran have come up at various points of time.

India and Pakistan : trading charges

India has consistently accused Pakistan of training and arming Kashmir militants. This is a fact which nobody in Kashmir denies, and Pakistan too denies only for form's sake. In any case Pakistan would and does reply that India trained the Mukti Bahini militants of east Pakistan in the 1971 war and helped what it would call the 'secession' of that part of the country. As far as trading of charges goes, it would be quite right in giving this reply. For people with a democratic point of view, however, the political issue involved in both cases is the same: self-determination, which cannot be called liberation when the Indian rulers like it and secession when they do not. And it is also true that India initially trained and armed the Srilankan Tamil rebels in their fight, for Tamil Eelam. Indeed, there is remarkable similarity here. According to a book written by a team of the Journal Indian Defence Review (Kashmir: The Troubled Frontiers), there are about 37 training camps in Pakistan for the Kashmiri militants, all of them located in the hospitable soil of ethnically and territorially contiguous Azad Kashmir. India, too, had about 35 training camps for LTTE militants, all of them in India's Tamil homeland of Tamil Nadu.

In Balraj Puri's words the real question is 'how did thousands of youth of a community always ridiculed for its docile and cowardly nature take to arms and successfully offer resistance to the might of the Indian State with a desperation that has few parallels in the country?'

The accusation therefore does not lie well in India's mouth. It would more befit the likes of the late Sheikh Abdullah who told Bhutto, when the Pakistani leader gave a call for bandh in Nov. 1973 in India's J & K in support of the demand of self-

determination, not to meddle in the affairs of his State, though he too was a champion of self-determination; or the likes of the JKLF leaders who, when talking to our team, made it a point to insist that they received arms and training only from their fellow Kashmiris across the border and not from the Pakistani army as such.

What is more relevant for us is that such aid from across the border is possible only if there is serious disaffection among the people who are recipients of the aid. And it is more fruitful to concentrate on the disaffection to remedy the situation. In Balraj Puri's words the real question is 'how did thousands of youth of a community always ridiculed for its docile and cowardly nature take to arms and successfully offer resistance to the might of the Indian State with a desperation that has few parallels in the country?'

The acts of militancy that took place in 1989 were preceded by widespread unrest in the valley in 1988. The training of militants across the border started that year. The Indian intelligence estimate is that about 200 to 300 armed militants entered the valley that year. Night curfew was imposed in the border districts. And there were incidents of firing across the border by the BSF. Amanullah Khan, the leader of JKLF declared on 31 July 1988 that 'the uprising had become an armed struggle.' Massive demonstrations were held in Kashmir on various occasions during 1988-89 and well into 1990 until the army clamped down brutally.

JKLF, Hizbul: differing stands

The JKLF came forward as the principal militant force in this period, and it took an unequivocal stand for the total independence of the whole of Jammu and Kashmir from the occupation of India and Pakistan. Amanullah Khan made this clear in press interviews given to Pakistani newspapers in 1990. He also insisted that the JKLF was a secular organisation. This twin insistence would soon cost the organisation Pakistani support, for that country prefers to support militant organisations that favour the Two Nation theory and would take J & K, if and when it is liberated, into Pakistan. As a Pakistani columnist, Ejaz Haidar, writing in *The Nation* (date 25-11-94) put it: "*By treating Kashmir as a dispute on strategically prime real estate we have effectively created a paradox in relation to our support for the right of self-determination to the Kashmiris. What we are in fact saying is that the Kashmiris must be given the right to choose, in so far as that is the only way they can kick the Indians out, but thereafter, they are to join up with us. So while they have the choice to get rid of India, they do not have a choice between independence and opting for Pakistan. This argument evidently does not agree with either the technicality of the issue under discussion, nor the morality of it*"

Given this view of the matter Pakistan has gradually shifted its support from JKLF

to the explicitly fundamentalist and pro- Pakistan Hizbul Mujahideen (HM). Pakistan has also not hesitated to crack down on the JKLF on its side of the border. On 11 February, 1992 (Maqbool Butt's death anniversary) Amanullah Khan led a march from POK towards Indian J & K. The Pakistani government imposed curfew and gunned down twelve marchers (twenty, according to JKLF spokesman Altaf Hussain Qadri in Srinagar). In spite of this the JKLF has not changed its views. Their leaders Yasin Malik and Altaf Hussain Qadri to whom we spoke were emphatic that the liberation of Jammu and Kashmir meant the reunification of the whole State and its independence from both India and Pakistan. As for secularism, they said that it is part of the Kashmiri culture and spirit called Kashmiriyat, which they stand for, and nobody need give them lessons on it. They also seem to realise that in the given multi-ethnic situation, being secular and democratic also entails a federal structure. Their vision of the independent State of J & K is a federal setup in which the various regions - Jammu, Ladakh, Poonch, Kashmir, Baltistan etc. - will have full autonomy and the centre at Srinagar will have only the powers of defence, foreign affairs and communications.

“looking back at the history of the last two years, it seems as if the Government of India was bent upon pushing the people of the valley into the lap of pro-Pakistan militants in a diabolic game to create a marketable image of the enemy. It is easier to sell the pro-Pakistan militants as foreign enemies for public consumption, and national sanction for the policy of repression, than the JKLF which enjoys the reputation of fighting for Azadi in both parts of Kashmir”.

It is interesting that not only did Pakistan encourage the Hizbul Mujahideen in preference to JKLF, but it also encouraged its protege to physically eliminate JKLF cadre, as Amanullah Khan complained in a press conference held at the Pakistani capital in December 1991. And it is widely believed, not only by the JKLF leadership but even by neutral observers and press persons, that India also covertly encouraged HM by targeting the JKLF in its crackdowns, and allowing the HM to attack and decimate its rival. Writing two years after the rise of militancy in J & K, the Committee for Initiative on Kashmir, in its report dated December 1991 said: “looking back at the history of the last two years, it seems as if the Government of

India was bent upon pushing the people of the valley into the lap of pro-Pakistan militants in a diabolic game to create a marketable image of the enemy. It is easier to sell the pro-Pakistan militants as foreign enemies for public consumption, and national sanction for the policy of repression, than the JKLF which enjoys the reputation of fighting for Azadi in both parts of Kashmir”.

This is a continuation of the earlier effort to encourage the Jamaat-i-Islami against the National Conference. The HM is known to be the armed wing of the Jamaat, while the JKLF represents the same tradition of Kashmiriyat that the original National Conference stood for. Such an effort is aimed not only at replacing a unifying force with a divisive force, which is easier to handle, but also at the recreation of the enemy in the shape of India's choice. A force that fights for Kashmiri nationalism would be difficult for India to delegitimise morally. It would be difficult to argue before the world in defence of India's war against such a people. But a force that fights for unification with Pakistan is an easier target in this sense, especially because the West is almost paranoid in its fear of pan-Islamism these days. India therefore prefers a Kashmiri fundamentalist over a Kashmiri nationalist, and a pan-Islamic fundamentalist over a Kashmiri fundamentalist as its enemy, and does whatever it can to reshape the enemy accordingly. That Pakistan is also interested in the same transformation brings about a strange unity of aims between these two supposed enemies.

Jagmohan returns

Violent incidents of targeted killing of individuals by the militants started in 1989. Md Yusuf Halwai of the National Conference was shot dead on 21. August; BJP State Vice President Tikalal Tiploo on 14 September; and former judge Neelkanth Ganjoo (he had sentenced Maqbool Butt to death) on 4 November. On 8 December Dr Rubiya was kidnapped and the release of five jailed JKLF militants was obtained. The Centre decided to get 'tough': It sent Jagmohan again as Governor. He took charge on January 1990 and created havoc by the time he left on 24 May, 1990. When Jagmohan was sent, Farooq Abdullah resigned in protest against the imposition of that unpopular man as Governor. This had the effect of putting Jagmohan in full charge of the State. It is generally believed that the Janata Dal Government, then in power at the Centre, which was dependent upon BJP support, sent Jagmohan on the insistence of the BJP, for Jagmohan was a man very much in the BJP mould. In his own words, he regarded Kashmir as a "valley of scorpions". *His job was to prevent the "formal declaration of new theocratic State". Not satisfied that the government had resigned, he dissolved the State Assembly, for he said, otherwise "there would be no moral legitimacy for the extensive use of force". He could not have made his intentions plainer.*

In his own words, Jagmohan regarded Kashmir as a "valley of scorpions".

As soon as Jagmohan took charge, the armed forces (the army, CRPF and BSF) moved in to undertake regular crackdowns and search operations. Arrests made during such operations frequently led to wanton killing of the arrested persons in custody. They would be killed and declared to have died in a cross fire. There were repeated allegations of rape and molestation of women during search operations. The men of the locality would all be asked to come out of their houses and sit at one place to be identified by informants, while the armed forces searched the houses. In the course of the search they frequently molested women. There were massive protest demonstrations against army atrocities as well as on other occasions. Such demonstrations on emotive issues had been taking place in the valley for many years but had grown in frequency and scale from 1988.

Mass movements, repression

Jagmohan's forces met these demonstrations with the massive use of fire power. The scale of killing in these actions is mind-boggling. In the CRPF firing upon a massive morcha of 20000 people demonstrating against armed forces' atrocities at the Gaukadal area in Srinagar city on 21 Jan. 1990, *at least sixty people were killed*. There was a protest demonstration against this the next day, which was again fired upon the CRPF, killing about eight persons in the Hawal area of the city.

On 1 March, 1990 there was a procession of about five lakh people which converged on Srinagar, demanding Azadi. The army fired upon the demonstrators at three places in the city (Zakura, Tengpura and Shalimar) *killing about 33 persons* including bus passengers.

The next major massacre, which led to Governor Jagmohan's removal from the valley of 'scorpions', occurred on 24 May, 1990. Its prelude was the murder of Mirwaiz Farooq. He had been, as we have seen a consistent orthodox opponent of the secular-nationalist stream of Kashmiri political consciousness. But he was also vocally unhappy with the resort to violence by the militants. It is claimed by many that he was killed by a militant outfit, but no one really knows. His body was taken out in a huge procession on which the CRPF opened fire near Islamia college without any provocation, *killing 47 persons*. This massacre was widely condemned, and even the US President George Bush is said to have sent a message to the Government of India

to restrain the forces in handling demonstrations and processions. The outcome was the replacement of Jagmohan by Girish Saxena as Governor of J & K.

Blatantly communal outlook

We have spoken of Jagmohan's Hindu chauvinist frame of mind and the harm it did to the situation. It should not be thought that this frame of mind is peculiar to one individual. It is a general attitude that today permeates much of the Indian State, especially the bureaucracy and the armed forces, as civil liberties and democratic rights organisations have observed in their reports on communal disturbances over the last decade and more. The administration and security forces in J & K are no exception. Reports published by the Committee for Initiative on Kashmir and other civil rights groups have mentioned many instances of army personnel abusing the Kashmiri Muslims in communal terms. They are Muslims, they hate India, they are agents of Pakistan, they are secessionists who want to take Kashmir into Pakistan - this is a series of ideas that to the Hindu Nationalist mind are logically sequential.

It is true, as we have said earlier, that there has been a substantial communalisation of the Kashmiri Muslim identity in recent times. But it does not appear to be the preponderant factor, in the view of most of the people we spoke to. It is true that the people we spoke to are themselves not free of prejudices. Some of them are partial to the specific Kashmiri traditions, and the others are of a more orthodox Muslim bent of mind. But it is striking that all the former category of respondents were emphatic that it is the classical Kashmiriyat of the saints and their shrines that informs the culture and identity of Kashmiris even today. The proponents of the orthodox and politically pro-Pakistan views appear dominant, they said to us, only because they have the guns of the pro-Pakistan militants behind them. While the proponents of the secular Kashmiri identity spoke to us emphatically on these points, the supporters of the orthodox and pro-Pakistan view-point were not equally emphatic in laying claim to being the true representatives of the contemporary Kashmiri view-point. One prominent fundamentalist intellectual, and leader of the Hurriyat Conference, when asked whether the future independent State of Kashmir would be theocratic or secular replied that *'it is for the people to decide, not for us to say'*.

In saying this we are only recording what appears to be a striking fact about Kashmir which is systematically denied in Indian propaganda. It is not our case that if what the Kashmiris desired had been unification with Pakistan on grounds of religious affinity, then it would be justified to humiliate them or to suppress their aspirations. Such suppression of any democratic right can never be justified.

But for the Hindu chauvinist view point, which, as we have noted above, the Indian

administration and security forces are increasingly permeated with, *it is convenient to present the Kashmiri aspirations as communal, because it makes it that much easier to justify the denial and brutal suppression of the aspirations, both in the eyes of the Indian people and the Western countries which are quite neurotically scared of Islam these days.*

Migration of Kashmiri Pandits: State policy

Such a view-point needs to reshape reality to suit its terms. We have already referred to certain aspects of this phenomenon. We shall see one more now. After the initial killing of Tikalal Tiploo and Neelkanth Ganjoo, there were further killings of Kashmiri Pandits. The militants said that they were targeting only government agents and informers, but the community as a whole did feel insecure. Some of them even received threats to leave the valley (the details of their situation we will discuss later). *At this juncture, Governor Jagmohan decided that the armed forces would not be able to provide security for the widely dispersed Pandit community and advised them to leave the valley.* They were promised, and given, the necessary help to emigrate. A very large number of them did migrate. While the reasonable sounding argument that the administration could not provide security for the entire community was given for public consumption, Jagmohan seems to have had a different reason in mind. *The migration of the whole community would give the unrest a communal colour, which was the image that suited the kind of propoganda India wished to undertake.* This became evident from the Governor's reaction to attempts by eminent personalities to bridge the communal divide. Balraj Puri recalls that in March 1990 he had widespread discussions with Muslims in the valley, many of whom expressed regret that the Pandits had to leave. A joint committee of the two communities was formed with former Chief Justice Mufti Bahauddin Farooqi, Kashmiri Pandit leader H N Jatto, and others to try to reverse the emigration. Appeals were issued by many Muslims to the Pandits not to leave the valley. Whether those appeals were sufficient to allay the apprehensions of the Pandits is not the relevant point here. What is relevant is that Jagmohan did not allow this effort to succeed. He sent an 'air ticket for Jammu' to Jatto through a police officer, 'a jeep to take him to the air port', an offer of accomodation at Jammu and advise to leave Kashmir immediately. Jagmohan's view, as he explained to Balraj Puri, was that *'so long as the Kashmiri identity exists, it will be exploited by America and Pakistan' and that 'if Hindus and Muslims live together in the valley, that will demoralise the armed forces'*. Both the comments are very revealing. The Kashmiri identity must be destroyed, and a Muslim identity must be encouraged to replace it, the better to deal with it by force and delegitimising propoganda. And rapprochement between Hindus and Muslims must be prevented so that the army can be motivated to kill the bigoted Muslims and pro-Pakistan fundamentalists rather than mere Kashmiris desiring self-determination.

Army's view

There is a recent publication on the Kashmir issue, brought out by the combined effort of a Hindu communal organisation and a team of the Indian Defence Review, a defence journal set up by a former army man and edited by another former army man. The army has evidently cooperated fully with the effort by providing much data that would not be available to others. The book titled 'Kashmir: The Troubled Frontiers' is the outcome of a project financed by the Shyam Prasad Mukherjee Foundation, and done by a team of the Indian Defence Review, along with one retired Major General called Afsir Karim, who after all turns out to be the editor of the journal which has set up the team. Why the editor is not part of the team but a separate collaborator is evident. He has a Muslim name, and it is more useful to have it on the text than to merge it in the anonymity of the Team. The book is further edited by a retired Captain Bharat Verma and a Journalist Manavendra Singh.

A 'national identity', according to the editors, takes 'the vision of self and society to highest levels of commitment.' For the individual, the nation is the 'decisive and elevating experience of his identity.' The nation defines the individual's totality, the confluence (and more than that) of all the 'components that go into making him.' And what is this nation which epitomises everything for the citizens? A constant factor in the concept of the nation is that it is 'identified by its physical being,' that is its shape and size: the citizens identify their nation with 'the psycho-stored outline of what it appears to be,' that is to say the map remembered from school days. 'The mind determines the boundaries of the nation, what it includes and what it excludes.' It is this identification with the nation imaged by the shape of its map remembered from school days and etched in the mind that constitutes the core of the national identity, which is then filled up with all hopes and aspirations. This crass jingoism would not have detained us but for the fact that it prefaces the very detailed views of men evidently quite close to the army, concerning all aspects (historical, cultural, political and military) of the Kashmir issue.

Naturally, when the core of the nation is its map, there is only secession and no self-determination. And when the national identity is a unitary entity attached to an abstract citizen, there is legitimate scope only for the identity of the 'majority' (as defined by prevailing culture, society and State) and none for that of any minority, religious, ethnic or linguistic. The conclusions that follow from this understanding are probably representative of the outlook that motivates the training of the armed forces:

1. The terrain and geography of J & K militate against an autonomous State or an independent State.

2. From the geostrategic importance of J & K India cannot afford to give it away.
3. Indians should learn to distinguish between insurgency and alienation of the people of the valley, but the lack of economic development or deprivation of any kind is not the cause of rising militancy in J & K. It has risen because of fanatical religious indoctrination and sponsoring of terrorism by Pakistan. Economic or financial pampering of the valley will only help terrorism and insurgency.
4. In certain spheres, where persuasion will not work, pressure must be used. A clear message that cooperation with the government will create better living conditions and employment opportunities must be conveyed.

A lot of other conclusions of a suppressive or manipulative character (such as 4 above) concerning the winning over of the Kashmiri mind are also drawn by the report but all of them within the framework of the above understanding.

★★★

Without comments

Enquiry demanded into the death of journalist

(Srinagar Times, February 2, 1991)

Srinagar:- Mr. Abdul Karim Wage, a member of Srinagar Times editorial staff and the sole news agent of this paper in Pampore was killed by security forces on Thursday 1.30 P.M. in the market of Pampore when the security forces began firing after a loud explosion. It is said that Mr. Abdul Karim was noting the statement of some persons from Dayalgam about the Dayalgam incident outside his shop when a security vehicle passed through and somebody threw a hand grenade on it. The security vehicle returned the fire and a bullet pierced Mr. Wage's chest. Some people say a shell pierced his chest and he died on the spot. All the shops were at once closed. All the employees of this paper along with the editor went to Pampore on receiving the news and offered their condolences on the bereaved family. He is survived by four little children and his father. Several religious, social cultural and militant organisations have condoled his death and demanded enquiry into the circumstances of his death.

The Kashmir Dossier, March 1991 By Committee for Initiative on Kashmir, New Delhi.

IX ARMY RULE IN JAMMU AND KASHMIR

“ . . . a situation where people of both sexes, young old and small children, even infants and months old babies, are killed like flies where ambulances are assaulted, hospitals are attacked, medical apparatus is smashed, where insane and sick persons are gunned down, where teachers, doctors, engineers and other public servants are killed in cold blood, where shop-keepers, businessmen, hawkers labourers, scholars, farmers, drivers, conductors, mechanics, in fact people belonging to all departments of life are killed deliberately.

Abdul Karim Rubhani

Chairman, Institute of Kashmir Studies.

We now come to the specifically civil liberties and democratic rights aspect of the issue. We will summarise, under appropriate heads, the situation as described by the reports published by various organisations in the last five years, adding details collected by our team of some specimen incidents of this year.

Expressions like ‘valley of death’ have been used and overused to describe the situation in the Kashmir valley during the last five years. Certainly, not a day passes without multiple killings. The following table gives the number of killings in Jammu and Kashmir during the first seven months of the 1995.

Month	By security forces	By militants	Total
Jan	146	43	189
Feb	200	48	248
Mar	188	38	226
Apr	379	18	397
May	298	80	378
Jun	343	58	401
July	231	160	391
Total	1785	445	2230

Those killed by the security forces include militants, alleged militants and acknowledged non-militant civilians. Those killed by the militants include civilians, rival militants and men of the armed forces.

This is the summary of the daily death toll as published by the daily newspaper Kashmir Times. It is only meant to give a rough picture, for exactness is impossible to achieve. The figures reported by the different news sources do not tally, and the newspapers print them one after the other, whether they tally or not. And there are plenty of deaths which are of a mysterious kind; for it is not clear who has killed them, the security forces or the militants. In such cases we have made the best possible guess, taking into account all the information published.

*We arrive at an average of more than 300
killings per month, or more than 10 each day.*

Nevertheless we arrive at an average of more than 300 killings per month, or more than 10 each day. The total figure for the period of militancy (1990 Jan onwards) would appear to be a minimum of 20,000 killings, going by past human rights reports. Amnesty International (AI) basing itself on 'police and hospital sources quoted also by international news agencies' puts the figure (by the end of 1994) at 17,000 (as against the Government of India's estimate of 10,000). If we add this year's dead, the figure would come to around 20,000 by September 1995. But almost all the people our team spoke to put the figure at around 40,000. There is really no way of knowing the exact figure. But the magnitude is staggering, considering that according to the 1981 census, the population of J & K was only 59.87 lakhs, of which the Kashmir valley population was 31.34 lakhs. Taking a decadal growth rate of 29% (the 1971-81 growth rate) the estimated population in 1995 would be about 86 lakhs for the State and 44 lakhs for the Kashmir valley. The population of the valley, where most of the killings have taken place, is less than half that of the city of Bombay!

According to local human rights organisation at least 40,000 people are incarcerated in the various jails of the state.

There are more than 5 lakh army and paramilitary forces to 'control and contain' this population. The government's estimate about the strength of the militancy is about 20,000. And the officially acknowledged daily expenditure on the armed forces in the valley is Rs. 5 crores. (Rs. 1825 crore a year). But whether it is only this much or

more depends on what is not included in this figure.

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These figures give an idea of the quantitative aspect of the conflict being waged by the Indian State in J & K. Its qualitative aspect can be understood only by looking at each variety of civil rights violation by the forces. We shall look at them one by one, as well as the draconian statutes-J & K Public Security Act (PSA), Terrorist and Disruptive Activities (Prevention) Act (TADA), Armed Forces (J & K) Special Powers Act, and J & K Disturbed Areas Act.

Custodial torture

"The brutality of torture in J & K defies belief. It has left people mutilated and disabled for life"

Amnesty International, January 1995.

We will give below a few recent instances of torture, to indicate the nature of the practice.

●●● During the night of 25-26 May, 1994 there was a cordon and search operation in Mohallah Kraleng in Sopore, Baramulla district. At about 8.30 am on 26 May, all the male inhabitants were asked to assemble near a clinic on the road. Fourteen boys and young men (of age ranging from 19 to 33) and one 65 year old man were taken for interrogation to two local houses which were converted into temporary interrogation centres. They were tied with ropes and gagged. A pipe of 4" diameter was used as a roller over their legs and thighs. Metal rods were passed through the anus and electric shocks were given. In the case of Md Mubashir Naikoo (35), a razor blade was used to inflict a deep cut wound on his anal region. (reported by a local human rights organisation, Kashmir Monitor).

●●● Nazir Ahmed Sheikh (25) of Yuhamma, Handwara Tehsil, Kupwara district was arrested by army in his village on 1 January, 1995 and interrogated for 12 days

at Kalam Chakla interrogation centre, and later at the Langate interrogation centre. He was made to walk barefoot on snow for hours together, and thereafter his feet were burnt on a stove. His lower limbs soon ceased to function. After one month and seven days the army dumped him by the roadside and the local police took him to the Bone and Joint Hospital, Srinagar. Doctors found that his feet had become gangrenous, and both feet as well as some fingers on the left hand were amputated.

Amnesty International, in its January 1995 report on custodial deaths has quoted similar incidents of torture-related amputation. (Manzoor Ahmed Ganai and Ghulam Mohammed Bhat).

●●● Our team spoke to Inderjit Singh Sodhi of Baramulla, who narrated how he was tortured by the BSF. He is a Sikh gentleman, a diploma holder in Mechanical Engineering, employed as an instructor in the ITI at Baramulla. He was arrested first in 1990 for 'smuggling of arms and sheltering of militants'. He was tortured by being given electric shock to his thigh and wrists at the Harinivas interrogation centre at Srinagar and the Kot Bilwal interrogation centre at Jammu. He then spent four years in jail under TADA and PSA, and came out in 1994. As soon as he came out he was again taken away by the BSF and tortured. He was given electric shock and roller treatment for five hours. As he was being crushed under rollers, he was forced to drink six litres of chilli water through his nose. But while this was in progress, the people of Baramulla demonstrated for his release, and he was taken to a hospital by the BSF.

Such examples can be multiplied by the thousand. We will merely list the various methods of torture commonly used: electric shocks are given very commonly to sensitive parts such as the penis, the feet, the legs, the forehead, the tongue, the ears, and the temples. Roller treatment is also very common. In this form of torture heavily built armymen stand upon rollers placed on the prostrate body and crush it. Burning sensitive parts of the body with cigarettes; burning the limbs on a stove or with a paraffin lamp or candles; pressing a hot iron on the back and other parts of the body; are common methods of torture. In almost every case, the victims complain of being forced to drink large quantities of drain water by forcibly putting the head in the water. Some have been forced to drink boiling water or chilli water. Some have had chilli paste put in the eyes. Sometimes the army men do not use a roller but five or six of them trample upon the prostrate body for a long time. Beating for a long time with rifle butts and sticks, especially on the knees, the bone-joints and ankles is another favourite feature. When being beaten the victims are sometimes suspended either by the wrists or by the ankles for many hours at a stretch. Sometimes they are suspended by the knees from a horizontal bar. The detenu is often not given any food to eat for long periods. Sodomy, forcible masturbation, and being forced to eat the ejaculated semen have also been reported. Some detenus have had their flesh

cut up in small bits from the thighs, buttocks etc. Rods are inserted in the rectum and forced in so that the internal organs are damaged. Chilli powder is inserted into the anus or tied in a small bag to the penis. Razer blades and bayonets are used to lacerate the skin and flesh deeply. Some have been tied to trees and shot at randomly, to survive with bullet injuries in case it does not end fatally. The case of Masroof Sultan, one such miraculous survivor, has been given in detail by Amnsteey International in its January 1995 report. Often the detenus are not allowed to sleep for a whole week, and are not allowed to answer calls of nature. They are kept nude in the intense cold of the Kashmiri winter. Many of the victims also speak of being subjected to deliberate humiliation by abusing their Islamic identity and beliefs. The Quran and the Prophet are abused. If the detenu is bearded, then, the beard being a symbol of his Muslim identity, it is deliberately burnt or plucked, which is both a physical torture and humiliation. He is also forced to drink liquor, which is regarded as an un-Islamic practice.

That these and similar methods of torture are used regularly is revealed by the factsheets collected from victims of torture by the Human Rights division of the Institute of Kashmir Studies, which has published the factsheets in a number of reports it has brought out since 1993.

It may be said that most (if not all) of these methods of torture are used by the police all over India. That is quite true. But it acquires a different connotation when every Kashmiri Muslim becomes liable for such treatment merely because he is a Kashmiri

Muslim, and literally tens of thousands have actually suffered such treatment. Secondly, while these methods are not altogether novel, they appear to be much more intensively and brutally applied in Kashmir, as witness the cases of gangrene leading to amputation, and frequent incidence of renal failure leading to death. **These incidents of renal failure have been attributed by Kashmiri medical experts to roller treatment, which 'crushes and ruptures the muscles, leading to breakdown of toxins which enter the blood stream and cause renal failure' (as quoted by AI). This kind of destruction of muscle tissue is called rhabdomyolysis, and the doctor in charge of the dialysis unit of the Institute of Medical Sciences, Srinagar is said to have commented to a London journalist in black humour that 'no other part of the globe has contributed so many cases to medical literature'.** The point we wish to make here is that roller treatment is one of the most commonly used forms of torture in Indian police stations. And yet it has been left to the Indian army in J & K to reveal, by the brutal intensity of its use of that form of torture, that it can lead to renal failure, which can easily be fatal.

Deaths in custody

“Every month there are more than 25 custodial deaths in Jammu and Kashmir”.

Kashmir Monitor

The various forms of torture described above can lead to fatal injuries or disease, and the detenu may die. Perhaps more commonly deaths in custody happen by the deliberate design described as a policy of ‘catch and kill’ by the Kashmiri human rights activists.

We give here a couple of recent examples of this ‘catch and kill’ operation of custodial killing just to give the readers a taste of the nature of this operation.

●●● In the early hours (1.30 am) of 30 July, 1995 an explosive planted on the Bemina by pass in Srinagar hit an armed forces vehicle, killing three personnel. Within three hours the forces came to the spot, and took into custody the proprietor of a spare parts shop, Riaz Ahmed (41), whose shop was located near the place of the incident. They alleged that the explosive had been planted by the militants in the presence of Riaz Ahmed. That evening, at about 7.30 pm Riaz Ahmed’s dead body was brought there by the army, and the chopped head and body were placed on the road, a hundred metres from each other.

●●● Md Mushtaq was a 36 year old unmarried resident of Gulhati in Rajouri district of the Jammu region on the Pakistan border. The behaviour of the army is particularly vicious near the border. This man was said to be mentally retarded. On a day in the last week of July 1995 he was walking past an army post at Gambhir, on his way from Rajouri to his native village. He was detained and questioned by the army. After the first couple of questions he stopped answering. He was tortured badly by the army and his skull was cracked with a rifle butt injury. The army personnel took him to hospital at Rajouri and tried to take a letter from his parents to the effect that it was they who had brought him to the hospital with an unexplained head injury. This account was given to us by an advocate of Rajouri Bar.

●●● This is a truly macabre story. Hilal Ahmed Nasti (a bank employee) of Anantnag, Gulam Rasul of Hutmoora, Anantnag district, and Ramja Alish and Farooq Ahmed Wani of Salgama were arrested at Hutmoora on 13 June 1995. According to Farooq Ahmed Wani, the only survivor of this death story, the four of the them were taken to a Rashtriya Rifles (RR) camp where Hilal Ahmed Nasti was first killed while

the others watched. His body was cut into five pieces and the second of the four was told to put the pieces in a gunny bag and dump them in the Jhelum river. He did so and came back. Then he was killed, cut into five pieces and given to the third person to take in a gunny bag and throw in the river. When he did so and came back the same fate awaited him. Farooq Ahmed Wani was given the five pieces of his slain body to dump in the river. Farooq, however, jumped into the river along with his burden and despite being wounded in the shoulder by RR gunfire, he swam across and escaped. He later gave a sworn statement recording these events to a judicial magistrate at Anantnag. (There is also a photograph of the piece of the dead body with which he jumped in the river.)

What is the total number of custodial deaths to have taken place ever since the rise of militancy in J & K ?

The Human Rights division of the Institute of Kashmir Studies made the following estimate based on information documented by the Srinagar High Court Bar Association, and its own fact finding efforts.

Year	No. of custodial deaths
1990	48
1991	72
1992	95
1993 (upto Sep)	289
Total. 1990-93 (Sep)	508

Amnesty International's Jan 1995 report titled 'Torture and Deaths in Custody in Jammu and Kashmir' which covers one more year than the above report gives lower figures for 1990, 91 and 93 but a much higher figure for 1992.

Year	Number of custodial deaths
1990	37
1991	47
1992	253
1993	248
1994 (upto Sep)	130
Total. 1990-94 (Sep)	715

The Government of India got quite upset over AI's report, and made hurt noises. It gave response only to 519 out of 715 cases, but in 273 of them the substance of the response was only to restate the army's version that the victim died in cross fire. In only 85 cases it admitted that there was prima facie evidence of violation of human rights and said that investigation was in progress.

But the AI's list may well be an underestimate, for which we cannot blame that organisation. Apart from the difficulty of monitoring human rights violations in such conditions as prevail in J & K, AI has also been consistently refused permission to visit J & K by the Government of India. It has been seeking permission since March 1990.

In a writ petition filed by the human rights activist H.N Wanchoo in 1992 just before his murder, he mentioned 155 custodial deaths that had occurred between July and mid-November 1992. At this rate the total for 1992 could be higher than the figure of 253.

The Kashmir Monitor's monthly journal has been publishing monthly lists of custodial deaths for more than a year. The following are the figures for each of the months (excepting Nov 1994) from June 1994 to April 1995:

Month	No. of Custodial deaths
June 1994	24
July	37
August	24
September	40
October	20
December	23
Jan 1995	12
February	11
March	17
April	14
Total for 10 months	222

These figures are compiled from the newspapers published in the valley. It will be noted that the total figure for June - September 1994 in the Kashmir Monitor's list is 125, whereas, AI's list assigns the total 130 to the 9 month period January - September 1994. If this is the true rate of custodial killings, even if it is proportionately less in the early years, then the total no. of custodial deaths in the last five years would be well beyond the figure of 715 given by Amnesty International.

Persons "missing" from custody

Apart from those who are known to have been killed in the custody of the armed forces, there are many who have simply disappeared from the custody.

Here are a few cases whose details we gathered during the fact finding:

☐ On August 4, 1995, Zafarulla Beg, Treasury Accountant at the local court in Uri, was apprehended by the security forces, while he was in duty on court. He had an ongoing land dispute with an army colonel. His whereabouts are unknown till date.

☐ In April 1995, the BSF came to Wagoora village in Baramulla district and took away Mohammed Ibrahim Shah, (24 years), Gulam Mohammed Bir (30 years) and Abdul Qayoom Shah (13 years). The dead bodies of the first two were found in Anantnag after a couple of days. Abdul Qayoom Shah is missing since then. The BSF has denied arresting him.

☐ Nissar Ahmed Parray, a lecturer in the department of Electronics, Kashmir University, was arrested by the security forces three years ago and he is missing since then.

☐ Mansoor Ahmed Zarkar was arrested by the security forces on July 15th, 1990. His father filed a Habeas Corpus petition in the High Court. After two years the State replied that he was released on July 17th, 1990. The case is still pending in the High Court.

The response of the army and security forces vis - a - vis the cases of missing persons is either to say (1) the said person has not been arrested or (2) he/she had been arrested and subsequently released or (3) the said person is in the custody of some other authority (there are multiple security agencies operating in the valley-- the army, the BSF, the CPRF, Indo-Tibetan Border Force, Rashtriya Rifles etc., independent of each other).

There is no exact figure of the number of such 'missing' persons in J & K. The High Court Bar Association has a list of 53 persons whose cases (Habeas Corpus writ petitions) are still pending in the High Court. In some of these cases the High Court has directed a subordinate judicial officer to record evidence and file a report.

In a memorandum submitted in November 1992 to the Government of India, Amnesty International has also mentioned 53 persons who are feared to be missing

from custody in J & K. Perhaps it is the same list has the High Court Bar Association list. for that list also does not go beyond 1992.

There must have been many cases of missing persons upto 1992 in whose cases no writ petitions were filed, or the petitions were soon disposed of. And there must be many more who have disappeared from the custody of the armed forces after 1992.

What is the total number of missing persons? One journalist at Srinagar gave the number as 280. But there is no authentic list. When a person is thus missing the remedy under the Indian Constitution is a writ of Habeas Corpus. However, the judiciary in J&K subserves and sustains the war being waged by the Indian State against people of J & K- while in other parts of India an Habeas Corpus petition is ordinarily heard immediately. in J & K the courts ordinarily first issue notice for admission, (something normally done only in the civil matters). Thus the hearing gets delayed by four to five weeks. Hundreds of Habeas Corpus petitions in J&K have been pending for 2 -3 years. Some are pending since 1990.

‘Cross fire’ killings

“ The security forces have frequently shot dead suspected militants; the killings are later reported as having occurred during cross fire between militant groups and security forces. In the majority of the cases, however, those killed are merely executed on the spot”.

Asia Watch
Kashmir under Siege, 1990

Cross fire between the armed forces and the militants takes place quite frequently in Kashmir. But most of the deaths that are said to have taken place in "cross fire" are actually deliberate and cold blooded murders by the armed forces. They could be custodial murders, or reprisal killings to avenge the attack of militants on the armed forces, or a random trigger-happy gunning down of civilians, or firing upon a procession of people. In the rest of India, the police or the paramilitary usually make it a point to describe the cross fire as having originated from the militants. The police or security forces are always said to have returned the fire in self defence. The Indian armed forces in J & K do not appear to be particular about showing all their killings as acts of self defence, because the Armed Forces Special Powers Act allows them to open fire on suspicion of threat to peace (and not only in self defence), or perhaps because the armed forces in J & K are even less accountable to the law than the police usually are.

'Cross fire' killings are the major form of killing by the armed forces in J & K. All the fact finding reports have documented such incidents in plenty. Here are a few recent incidents about which our team gathered details.

□ This is a case that has led to wide-spread criticism and protest in Kashmir. On the afternoon of 23 July, 1995, the Rashtriya Rifles (RR) shot dead two engineers of the J & K government along with a farmer. The two engineers were Shakil Ahmed Salman (32), junior engineer in the Electricity department, and Ghulam Nabi Lone (30) Asst. Engineer in the R & B department. They had undertaken a project on behalf of the Union of India's Ministry of non-conventional energy resources about the possibility of a mini-hydel project on the Sukhnag Nalla in Budgam district. They left Srinagar on that job on the morning of 23 July at 9 am in a car along with Dr. Naseer Ahmed Laway, a senior lecturer at Regional Engineering College Srinagar, and a farmer by name Ghulam Mohiuddeen Zargar of the village Laynlab, to show them the way. They crossed an RR picket on the way near the village Raiyar at 11.30 am, where they identified themselves and told the army men what work they were going on. They were searched and told to proceed. After driving some time they parked their car by the roadside and walked upstream the Sukhnag Nalla for about one and a half hours. They stopped at an open place near the village of Arizal to eat the lunch they had brought with them. The time was past 1 pm. Suddenly they had gun fire aimed directly at them. The two engineers and the farmer were hit. Dr. Laway jumped into the stream and hid behind a boulder. He says there were 10 to 20 guns firing, and the firing went on for half an hour. After about three hours some more army men came and called him out. Laway came up and identified himself. He saw that his two friends were dead but Zargar was injured but still alive. The army men told him that it was the RR which fired at them, but tried to convince him that there was a cross fire. He told our team emphatically when we met him that there was no cross fire at all. He also said that though Zargar was alive, the army men took no pains to shift him to a hospital soon. They wasted another three hours before they brought a horse to take Zargar. He died on the way. When Dr. Laway gave his complaint to the local (Beerwah) police station, an armyman accompanied him and tried to get the words cross fire inserted into the report. But Dr. Laway refused to call it a cross fire.

□ This is a recent example of reprisal killing masquerading as "cross fire" killing. The date is 10 February, 1995. At Zaina Kadal in Srinagar, a busy market area, one BSF man was shot dead by the militants. Within minutes the BSF got into action firing arbitrarily into the street and the lanes and dragging out shopkeepers and killing them. A total of seven were killed. Saleem Hameed and Peer Bashir Ahmed Shah, shopkeepers, and Mushtaq Ahmed Khan, watch repairer, were dragged into the road and shot. The first two died instantly, while Khan died later in hospital.

Haji Ghulam Nabi, a sixty year old shopkeeper, tried to intervene and protect a passerby from being shot. The BSF officer there ordered a Jawan to kill Nabi, who was shot dead instantly. Javed Ahmed Shehri, another shopkeeper, Abdul Rashid, a passerby, and an unidentified rickshaw puller were hit in the street as they tried to escape the arbitrary firing. Shehri died immediately and the other two died later in hospital. The whole BSF killing operation went on till 6 pm. and later there was a cordon and search operation in the area till 8.15 pm. All the dead were said to have died in a "cross fire."

□ This is an alleged "cross fire" incident in which two villagers were used as human bombs to kill militants. The day is 23 July, 1995 and the village is Saibugh, Budgam Dt. At 3 am the Rashtriya Rifles conducted a search operation in the village suspecting some militants to be hidden in the house of an old National Conference activist Asadullah Mir. RR made all the people of the village assemble at an open place 1 km from the village. Two youth were then selected from the assembled villagers. Their backs were strapped with explosive and they were told to walk into the house of Asadullah Mir. As soon as they entered the house the RR men detonated the explosives using a remote control device. The two youth as well as the five hidden militants in the house died as the whole house came down.

Two youth were then selected from the assembled villagers. Their backs were strapped with explosive and they were told to walk into the house of Asadullah Mir. As soon as they entered the house the RR men detonated the explosives using a remote control device. The two youth as well as the five hidden militants in the house died as the whole house came down.

□ This is a recent case of a young woman who was shot dead when she tried to intercede on behalf of a road sweeper whom the army was taking away. On the morning of 4 April, 1995, the RR in Baramullah town was hunting for a young man. They abused and beat up people asking about him: When they got hold of Ghulam Mohammad Bangi, a street sweeper, near Mohallah Ganai Hamam and started

dragging him away, suspecting that he had knowledge of the young man's whereabouts, the woman residents of the area intervened and protested. The RR beat up them also. But two sisters, Mahbooba (22) and Shahzada threw themselves on Bangi to save him. The RR jawans directly opened fire on Mahbooba, killing her instantly. This too was described as a "cross fire" killing, but the town protested by observing a total bandh.

Mass killing by Armed Forces

"The people of Kashmir have experienced the atrocities of the Indian security forces in the form of nerve-shattering crackdowns, insulting identification parades, and killing of innocents that has approximately risen to 40,000 which includes massacres at various places like Lal Chowk, Gaukadal, Chotta Bazaar, Daribal, Kangan, Sopore, Handwara, Bijbehara, etc....."

Memorandum sent by Kashmir University
Teachers Association to the
US government

Firing upon demonstrations

There are three types of situations in which the Indian armed forces have indulged in killing people in large numbers. One is firing upon processions and demonstrations, of which three major instances (Gaukadal on 21 Jan. 1990, Tengpora - Zakura on 1 March, 1990 and Islamia College on 24 May, 1990) were mentioned in the previous chapter. Subsequently there were other such incidents. On 8 May, 1991, armed forces fired upon a funeral procession in Khanyar, Srinagar city and killed 14. The procession was mourning the 73 persons killed at the border on 5 May, 1991, in an alleged encounter with the army while trying to enter Indian J & K from the Pakistani side. The killing of the mourners was described by Governor Saxena as 'a bad case' according to AI. Nothing is known about the mass killing at the border on 5 May. The Bijbehara killing of 1993 is a more notorious case in which even the National Human Rights Commission Chairman Rangnath Misra took interest. *There was a massive procession of people at Bijbehara in Anantnag district on 22 October, 1993, protesting the siege of the Hazratbal shrine by the army. That was at the time of the occupation of the shrine by some militants and the army's attempt to gain entry of the shrine. The BSF, without any provocation whatsoever, opened fire on the Bijbehara procession killing 47 people. A magisterial enquiry held that the firing was unprovoked*

and unjustified, and recommended prosecution of 12 BSF men; the BSF's own internal enquiry held 14 of its own men responsible. And yet nobody has been punished till now, according to Amnesty International.

Reprisal for militants' attack

The second situation where killing of people in large numbers takes place is when the armed forces take revenge on the local public as a reprisal for militants' attacks on the forces. Many such incidents have happened in J & K in the last five years.

- On 1 August, 1990, an army convoy passing through Pattan on the Srinagar-Baramulla road suddenly opened fire into the crowded market area, killing 12 civilians. It is believed that a truck of the convoy fell in a ditch and a machine gun went off which the army mistook for a militant attack.
- On 6 August 1990, in Mashalli Mohalla in Srinagar, the BSF, retaliating for a grenade attack by militants, broke into homes and shot dead 10 people.
- On 10 August, 1990, the army entered the town of Phazipora, Kupwara district and set fire to about 50 houses and fired at random, killing about 25 people, mostly peasants working in their fields. The army was taking revenge for a militant attack on army camp at Tregham, two kms from Phazipora.
- On 1 October, 1990, Handwara, a border town of Kupwara dt., witnessed the BSF spraying bullets in the market area in retaliation for the killing of their men by the militants. They also set on fire to 350 houses and shops. 16 persons were killed, 15 of them of bullet wounds and one of burn injuries.
- On 11 June, 1991, following the killing of a CRPF jawan in the Zainakadal area of Srinagar, the CRPF went on a killing spree at Chotta Bazaar, 4 kms away, killing 25 civilians.
- The town of Sopore near the Pakistan border in Baramulla dt. was twice subjected to reprisal killings by the BSF (apart from being burnt down many times, as we shall see in the next section). The first time was 13 April, 1992. There was an attack on the BSF by militants at a place quite far from Sopore. About 5 hours later, at noon, the BSF entered Sopore and started dragging people out of their houses and shooting them. 13 persons were thus killed.
- The second time was on 6 January, 1993. One BSF man was killed by militants in the town that morning. Soon after the BSF went on a killing spree in the town.

They showered bullets on the town, pulled people out of houses and shops and shot them. They fired upon a State Road Transport Corporation Bus bound for Bandipora and killed passengers. 45 persons were killed in this slaughter. 15 of them passenger of the bus.

- On 13 July 1992, militants killed a jawan of a convoy going towards Bemina near the village of Nasrullapora in Budgam district. One hour later, at about 4 pm soldiers descended on the village and killed ten persons in indiscriminate firing.
- There have been instances of panic reaction in which the armed forces have opened fire on the public imagining some explosion or tyre burst to be a grenade attack on them. One such incident happened 15 July, 1990 in Baramulla in which CRPF and BSF mistook some distant sound for an explosion, opened fire on the public, killed two and injured four.
- On 10 April, 1993, the BSF set on fire and opened gunfire at houses and shops in Lal Chowk, the heart centre of Srinagar city. 10 persons died and 165 shops and 67 buildings were completely gutted.
- Such reprisal killings have continued this year too. We have, in the previous section, described the Zainakadal killing of 10 February 1995.

"Crackdowns"

The third type of mass killing occurs during crackdowns in towns and villages. Most crackdowns result in somebody or other being picked up and shot dead.

In a crackdown, normally, the armed forces first cordon off the area and ask all men to come out and gather at one place. An informer ('cat') is brought there to identify people helping or supporting or participating in militancy. The identified persons are picked up and are either taken to the army camp, or else a local residence is converted into a temporary interrogation centre. *A house to house search of the area simultaneously takes place, during which women are often sexually assaulted or vulgarly abused. In the course of all this, some of the identified persons or the common villagers are shot dead.*

One major incident of mass killing during a crackdown occurred in the villages surrounding the Wullar lake on 12 Sep. 1991. Between 15 and 25 men are said to have been killed in that single day's crackdown on the village Aloosa and other villages surrounding the lake.

This year, there has been a very major case of mass killing during a crackdown. The Kashmir Times has reported that on 28 April, 1995, in an army crackdown on the border village Hamam Maskot, in Handwara Tehsil of Kupwara district, 43 militants belonging to the Muslim Janbaaz force were killed by the army. Around the time of our visit one eighth of the population, at any given time, was under 'crackdown'.

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● This is an example of the extreme brutality with which the armed forces behave during crackdowns. On April 9, 1995, the RR and BSF together raided the village of Bangam on the Srinagar-Leh road. They entered the houses and directed all the male members to gather at the local middle school compound. When they went into the house of Ali Md. Shah, that man was trying to put his crying child to sleep, and sought some time. The army men threw the child away and hit the man who then screamed. His father Md. Abdullah Shah (70) and his daughter Gulshan came down. When they tried to argue with army men, they opened fire. The 70 year old man died instantly, while Gulshan was also hit and fell down bleeding. The old man's wife Sama and the neighbours came there to demonstrate with the army men. They opened fire upon them also, hitting Sama on the leg. When the injured Gulshan asked for water, the army men did not allow them to give her water. She died six hours later in great pain.

Arson by the Armed Forces

“In the last five years, Rs. 265 crores worth of property was damaged, and 148 persons burnt alive, in 6931 incidents of fire”.

Kashmir Times, 19 Apr 1995

The armed forces are not responsible for all these incidents of arson. The militants have also set fire to a number of houses, cinema halls and schools which house armed forces. But what is relevant to our report is that arson has been systematically employed as a weapon by the Indian armed forces to flush out hiding militants, to burn them alive, and to teach a lesson to villages and localities that harbour militants or support the militant movement. In the year 1990 alone according to a report quoted by Asia Watch, 3000 dwellings were set on fire by the army and BSF.

Arson has been systematically employed as a weapon by the Indian armed forces to flush out hiding militants, to burn them alive, and to teach a lesson to villages and localities that harbour militants or support the militant movement.

□ Here is a recent instance of arson perpetrated by the army and BSF during a search operation. The village is Lavre Jageer near Tral, Pulwama district, about 48 kms from Srinagar. According to Kashmir Monitor, the army unit at Tral cordoned off the village at about 8.30 am of 10 Jan. 1995, and began its search operation. The men of the village were all assembled at one place and beaten with rifle butts till 11 am. Then a house to house search was undertaken. At the end of the search, some hay from the cow shed would be brought and used to set fire to each house. The search and burn operation went on for three days. 17 houses were burnt down, 1 of them 4 storied, 8 of the them 3 storied and 4 of them 2 storied. When a fire brigade from Tral came there the army did not allow it to enter the village for three days. When the Deputy Commissioner (who is also the District Magistrate) of Pulwama came there accompanied by a Deputy Superintendent of Police, on receipt of a complaint from a villager, they were allowed to enter the village, but as the arson and shooting was going on, they left the village in a hurry. The reason for this act of arson appears to have been an attack on the armed forces by the militants in which one JCO was killed.

□ In the year 1990 there were many incidents of large scale arson in Kashmir. We have already referred the killing at Handwara on 1 Oct. 1990 in which 350 houses and shops were burnt along with the killing of 16 people. The total number of such incidents of deliberate acts of arson in 1990 is counted as 'a dozen' by Asia Watch. All the incidents are officially explained as accidental catching of fire during a cross fire between the armed forces and militants. But invariably they are deliberate crimes of arson perpetrated by the armed forces. Almost all the reports describe the army as using explosives or petrol or inflammable powdery substances in a planned manner to ignite the dwellings, which are mostly made of wood in Kashmir.

□ The incidents of arson at Noorbagh, Srinagar (7 Oct. 1990), Rangteng Kawdara, Srinagar (also 7 Oct. 1990), Sopore (26 Jun. 26 Jul and 20 Sep 1990), Chak Kalwoosa, Budgam district (13 Jul. 1990), Watmagam and Adina, Budgam district (8 Jul. 1990), Trehgam (11 Aug. 1990), Sriguphwara, Anantnag district (11 Aug. 1990), and Putshai (14 Aug. 1990) have been recorded in detail in the reports of Asia Watch and the

Almost all the reports describe the army as using explosives or petrol or inflammable powdery substances in a planned manner to ignite the dwellings, which are mostly made of wood in Kashmir.

□ In the year 1992 there was a tragic incident of arson near Hazratbal in Srinagar in which a library with 16000 books, including many rare handwritten manuscripts, was completely gutted on 22 Jan. The BSF, noticing JKLF flags in that area, had started removing them, leading to an altercation with some people there. In the course of this, some militants fired upon the BSF. The BSF returned fire killing one person. Soon thereafter the library caught fire. The BSF blamed the militants but the militants said they would not burn what is a treasure house of Kashmiri history and culture. They alleged that the arson was caused by the BSF, an allegation supported by former Chief Justice Mian Jalaluddin, who was approached by the local people to enquire into the incident.

□ In 1993, Sopore town was again torched on the intervening night of 2 and 3 May by the BSF in retaliation to a rocket attack by militants on the BSF camp. The Hathishah and Jamia Qadeem localities were set on fire, burning down about 33 shops and commercial establishment and residential buildings. For three hours fire tenders were prevented by the BSF from coming to the burning locality. On 9 May night the army torched six houses in the villages of Bapura and Erin near Bandipora town in retaliation for an attack on army by militants at the nearby village of Kunan. We have already referred to the major incidents of arson in Lal Chowk, Srinagar, in which the BSF set on fire 165 shops and 67 buildings.

□ In 1994, PUCL and Kashmir Monitor have recorded one major case of arson in which 54 residences were burnt in the village Mawar-Bala, Handwara Tehsil, Kupwara district. On the evening of 23 Apr, 1994, the army encircled this village and started a house to house search. They used dry hay to set fire to a dwelling belonging to one Shaban Lone, suspecting that militants were in the place. The militants tried to come out but the army was alert and all four of them were shot dead. The army also had casualties when the militants fired as they came out. Then, in anger, the army started torching the other houses. Some houses were bolted from outside by the army, and the residents had to jump out to save themselves. The local Subdivisional Magistrate who came there at that time along with the police was forced to leave

quickly lest he be caught in the cross fire. The fire brigade which came there was prevented by the army from doing its job. The total loss in the arson is estimated by the villagers as 64.52 lakh rupees.

□ On July 30, 1994, according to Kashmir monitor, Sopore was once again burnt by the BSF. The BSF cordoned off the Kushal Matto and Sangrampora areas of the town, assembled all the male residents at one place, and took into custody Showkat Ahmed Kanna, John Mohammed Sheikh, Ghulam Nabi Darzi, Md Ashraf Sheikh, Md Ramzan and Mehrajuddin Budha. They were taken to an interrogation centre and killed. Before leaving, the BSF sprinkled some inflammable material and burnt 40 houses.

The burning of Charar-e-Sharief

“In the course of a decade this is the third place of religious worship which was subjected to attack and demolition, and all these places of worship belong to the minorities. Whatever may be the reason, it is a disturbing trend”.

*People's Union for Civil Liberties (PUCL) and
Citizens for Democracy (CFD)*

The burning of the Charar-e-Sharief including the shrine of the revered saint Sheikh Nuruddin is the most significant and tragic event in the Indian armed forces' handling of militancy in J & K this year. Detailed reports on this act of arson have been prepared by the PUCL-CFD team and the Committee for Initiative on Kashmir, in addition to the reports published by many journals. Our team, therefore, did not visit the town but we will give here a brief account of the happenings as gathered from the above two reports and our conversation with people in the valley.

Three militants who were residents of the town of Charar-e-Sharief were killed in an 'encounter' near the town by the BSF in the last week of February, 1995. On 6 March 1995, a BSF convoy passing through the town was attacked by militants and two security men were killed. The convoy went on firing indiscriminately until it was well past the town. One woman, Mukhtar Begum was killed and sixteen others including five women and a two year old child were injured.

As it was rumoured that a number of 'guest militants', or what India calls 'foreign mercenaries', were in the town, the BSF laid siege to the town on 7 March, 1995 to flush out the militants. These militants, led by one Mast Gul, were in the town from

February but their number appears to have been vastly exaggerated (as pointed out to us by a newspaper editor), whether out of ignorance or in order to justify the pugnacity of the army in persisting with the siege. At the end, out of the 23 dead bodies recovered, only five were declared to be foreign militants. But as Frontline reports, even this is doubtful, for the local people angrily identified each of the five by name and village.

A total of 1460 houses were burnt down, in addition to the shrine, at an average of five members per house, this means that about half the town's population of 26,000 were rendered homeless.

The siege went on for more than two months at the end of which the whole of the town, including the shrine, got gutted and destroyed, in the intervening night of 10 and 11 May. A total of 1460 houses were burnt down, in addition to the shrine, at an average of five members per house, this means that about half the town's population of 26,000 were rendered homeless. There was intermittent exchange of fire between the army and the militants throughout the two months, with the army shelling mortars. Fire started late in the evening of 8 May. By the morning of 11 May the whole town was burnt down. The Army not only made no efforts to get fire tenders urgently from Srinagar, but even the one fire engine in Charar-e-Sharif could not get into action till 10 a.m. of 9 May, for the Army kept shelling the town till then, in the midst of the raging fire. And when fire engines from Srinagar did turn up, the Army, which was in full control of the town's surroundings, made no efforts to supply them with water. The administration says that the Hizbul Mujahideen militants led by Mast Gul set fire to the town and the shrine in order to escape from the siege, adding that the foreign militants are orthodox Sunni Muslims who do not worship the shrines of the Sufi saints. But many people in the valley, including those who are no admirers of Mast Gul, believe that it is precisely to take advantage of this division between the people of Kashmir and the 'guest militants' that the siege was obstinately persisted with by the army, ending in the destruction of most holy shrine of Kashmir. This obstinacy has been well brought out by the PUCL-CFD report. Since militants, whether Kashmiri or non-Kashmiri, are present all over the valley, their presence in Charar was not such a unique event that necessitated persisting with the siege at the cost of the shrine which is the symbol of Kashmiri identity. From a distance of 6 kms on the first day the army moved in closer and closer, to within one kilometer of the town. It continuously shelled mortars

on the town, which by itself could have had incendiary consequences in a settlement built mostly of wood. While more than 70% of the residents of the town left soon after the siege, there were many other residents who took upon themselves the responsibility of mediating between the militants and the army. A delegation of respected individuals led by a local lawyer Baba Abdul Khaliq attempted the mediation. But the officers refused to accept any proposal short of surrender of the militants, though it was promised that if they did surrender, they would be sent back to Pakistan. It was irresponsible to persist with the insistence on surrender in a situation involving the possibility of destruction of a shrine, the protection and preservation of whose sanctity was in the beginning said to be the sole aim of the army's siege operation. After all, if the army could cynically calculate that Mast Gul would have to surrender because he would not risk damage to the shrine which would alienate him from the Kashmiris, Mast Gul and his comrades could equally cynically calculate that sooner or later the army would climb down from its insistence on their surrender because it would not risk the destruction of shrine which would alienate Kashmiris even further.

From 19 March the press and outsiders were not allowed to go to the town. As many of the residents too gradually left the town, rumours and partisan versions would thereafter be the only truth. Civic amenities to the town were cut and were restored only after the residents protested. Leaders of the All Party Hurriyat Conference, Syed Ali Shah Geelani and Shabbir Ahmed Shah were not allowed to take needed rations and drugs into the besieged town on 6 April on the ridiculous ground that they were carrying explosives for the militants, hidden under the medicines. This is yet another instance of the insulting attitude the Indian authorities have always exhibited towards the Kashmiri spokesmen. Later, when things became tense Yasin Malik of the JKLF and Shabbir Ahmed Shah of the People's League as well as the Hurriyat conference offered to go to the town and mediate. Both of them had come out of prison with the explicit idea of seeking a non-military solution to the Kashmir problem and Shabbir Shah in particular had been meeting and talking to Indian politicians and other prominent personalities at Delhi. Yasin Malik, for his part, is a known partisan of the identity of Kashmiriyat, represented by the shrine of Char-e-Sharief, and an opponent of the pro-Pakistan militants taking shelter in the town. If they had been allowed to try mediation, they would have only hurt their own reputations in case they failed. It would have done no damage to the Indian army. And yet they offered to mediate out of their own sense of responsibility, whereas the army refused to allow them, in a crass exhibition of cynical irresponsibility. The residents of the town proposed on 21 April that the army should withdraw for ten days and enable the militants to leave; and they asked the militants to promise to leave within 10 days if the army withdrew. The militants would have agreed because from the beginning their stand was that they would leave the town if they were allowed

to go unmolested. But the army refused. As A G Noorani writing in Frontline says, *the army officers' stand was that 'it is upto the residents of Chrar to force the militants to leave the town'. After the tragedy, army officers would remark to journalists that if people in Kashmir could not prevent militants from taking shelter in holy places then they would have to accept the destruction of those places, and the army could not be blamed. This was the lesson, according to the army, that the people of Kashmir had to learn from the burning of Sheikh Nuruddin's shrine.*

The mutual exchange of fire by the militants and army continued. Finally some structures caught fire late in the evening of 8 May. "There was a blast in the market, followed by army firing and then the fire started" says the PUCL-CFD report. Even some Delhi papers reported the very next day that it was the army action which started the fire. After the surrounding structures caught fire the militants moved into the shrine, which too caught fire after mid-night of 10-11 May. The Indian army claimed to have intercepted wireless messages sent by Mast Gul to Pakistan during 8-11 May which "prove" that the arson was preplanned. But as many observers have queried, why would the militants have set fire to the only shelter they had and expose themselves to the army?

The continuous and irresponsible shelling of the town by the army can certainly be suspected to have caused the fire.

The people of Chrar believe that it was the army which deliberately caused the fire by dropping some inflammable substance from a helicopter. Even if this unlikely theory is rejected, the continuous and irresponsible shelling of the town by the army can certainly be suspected to have caused the fire. The local police reported that starting at about 11.30 in the night of 10 May, there was heavy exchange of fire between the Army and the militants. The Army advanced towards the shrine, apparently to close in on the militants. This long burst of firing was followed by the shrine catching fire. If this version is true, then the blame rests squarely on the Army. In any case, what is least defensible, is the unwillingness of the Government of India to order a judicial enquiry into the incident on the ground that it will demoralise the army. But of course, the unwillingness is perfectly understandable, since the continuously shifting attitude of the Army must only have reflected the ideas of its political masters in Delhi, who must ultimately be held squarely responsible for the crime.

Rape by Armed Forces

“The armed forces had turned violent and behaved like beasts. . . I feel ashamed to put in black and white the kind of atrocities and their magnitude brought to my notice. . . .”

S M Yasin, District Magistrate, Kupwara
7 Mar 1991

Rape by the armed forces is a form of torture. It is used as a weapon of suppression to cow down the people whom the armed forces are fighting.

Women in J & K are only rarely taken into custody. They become targets of the sexual aggression of the armed forces when house to house search takes place, whether in the towns or villages. During such searches, usually all the men are ordered to gather one place to be identified by army informers, and the houses are searched in their absence. The men are not allowed to come back until the search is complete, even in the most bitterly cold winter, irrespective of how long the search takes. The searches that take place in such conditions are frequent occasions of sexual assault on the women of the households by the armed soldiers. This is one of the many consequences of the communalisation of the Indian armed forces.

The border villages are the most vulnerable. Here the army and the BSF outnumber the villagers by many times. For they have the duty of guarding the long border against what are described in official handouts as ‘Pakistani infiltrators’, who are principally Kashmiri youth who have crossed the borders to get weapons and training. And as the border villagers are suspected of harbouring and helping these persons, they have to face the brunt of the army and BSF search operations. Sometimes, according to one journalist, the search operation goes on for 6 to 7 days, during which the village is completely sealed off. Moreover, outsiders cannot get close to the border, and so what happens there rarely gets known outside. For all these reasons, army and BSF atrocities, killing as well as rape, are more ruthless and less publicised in the border regions. In the report we have given till now the reader would have noticed the recurrence of the names of certain localities like Sopore and Handwara. That is explained by the fact that such localities are border townships. The border districts of J & K are Baramulla and Kupwara in Kashmir and Poonch and Rajouri in Jammu. As the Kashmir Monitor says, “major cases of rape committed by securities forces in the border areas, in far-flung areas and in areas beyond the search light of the press and human rights organisations have become non-events”.

●●● The village of Kunan Poshpora in the border district of Kupwara saw the first major incident of mass rape that was publicised effectively. On the night of 23

February, 1991. 'hundreds of soldiers, many of them drunk, arrived in the village.' According to a fact-finding team led by retired Chief Justice Mufti Bahauddin Farooqi, the men of the village were taken out of their homes to be questioned, and in the meanwhile the houses were raided and the women gang-raped. Some women were raped by 7 men and some by 10. At least 23 women were thus assaulted, says Amnesty International. Justice Farooqi took the statements of 53 rape victims, and thought that more than 100 may have been raped. On 5 Mar the District Magistrate Mr S M Yasin, who had heard of the incident, visited the village and sent a letter to the State Government confirming what he had heard. A case was directed to be filed against the army men, and the local police were directed to investigate it. But they neither had the women examined medically, nor conducted any investigation. And the army said that the story was concocted and was intended to tarnish its image. Including the District Magistrate too in the conspiracy to sully the bright image of the Indian army, it said "the very fact that the DM's report was sent two weeks after the alleged event shows that the whole thing was made up."

●●● On the night of 10 October, 1992, during an army raid on the Gujjar village of Chak Saidapora near Shopian, Pulwama district, the men were all taken away from their houses and atleast 9 women including a 11 year old girl Ziatoun were raped in their homes. 7 of the women were immediately medically examined at the Government hospital Shopian. The doctor found evidence of forced intercourse in the case of 6 women. The 7th woman, and the remaining two who were examined only after three days, showed evidence of physical injury such as bruises and abrasions. But in this case too the army said that 2 of the women were wives of hardcore militants, and that the allegations were part of a 'well orchestrated disinformation campaign' to malign the armed forces of India. But the army had an enquiry conducted into the incident. The culprits acted swiftly to shut up the evidence, according to the J & K Forum for Human Rights and Civil Liberties. It appears that one Gujjar boy of that village was a militant. His brother was living in the village. The army men forcibly photographed the brother with a gun on his shoulder, and told the boy's father that if any one gave a statement about the rape to the enquiry officer, this boy would be killed. Regarding the medical officer's reports, the government, in its reply to AI's questions, said that it is 'based on circumstantial evidence rather than purely medical grounds.' They may have more plainly said that the medical report was based on the doctor's sympathy for the militants' cause rather than 'purely medical grounds'.

Almost every report of army or paramilitary atrocities during search operations mentions molestation and rape, but not many incidents have been concretely recorded. A High Court lawyer of Srinagar associated with the J & K Forum for Human Rights and Civil Liberties said to our team that atleast 13000 women have been molested in the last 5 years of army crackdown and search operations. There is

no way to check how true or how much of an exaggeration this allegation is. We will end with a report of two more recent incidents.

●●● The first is reported by Kashmir Monitor. It concerns a Gujjar hamlet, Theno Budpathery on the mountain slopes near the township of Kangan. The Gujjars of Kashmir are an extremely backward and poor people who live in mountainous hamlets, and often have a wandering life style. Near this hamlet there was an army picket, and the army men were taking forced labour from the Gujjars of the hamlet. Not satisfied with this, the soldiers came to the hamlet on the night of 11 Sep 1994 and entered the Gujjar huts and raped 5 women. Zakira (21), Zenab (20), Bibi (35), Zawra (25) and Wahab Noori (35). When Zakira caught hold of a pillar to save herself, they burnt her fingers with a burning coal from the kitchen to unclench her hands. Most of the women were gang-raped. Some were taken behind their houses to be 'questioned about militants' and raped there.

The BSF camp in Badgam is one such notorious camps where the presence of captive women is a public knowledge. The abduction of Kashmiri women and their abuse in captivity as forced sex objects, marks a bestial and demented turn in the army occupation of Kashmir.

Our team also gathered material about another such incident that happened near the Uri border in Baramulla district this year. The village is Jubla, a small hamlet of population 200. On the night of 18 March, 1995, there was a reported mine blast near the village, causing injury to some men of the armed forces. The security men then entered the village and gathered all the males at one place outside the village. The next morning, when the men were allowed to go into the village, they found that many women were missing. Later in the day, all but 7 of the women came back, with tears in the eyes and tales of molestation. What happened to the remaining 7 women? We do not know whether they came back later, as the person who told us of this event was a resident of Srinagar who did not know the latest situation.

●●● A journalist of Srinagar told us in bitter tones that there were at least 100 such 'missing' women in Kupwara alone, who are being used as forced sex objects by the men of the armed forces. The BSF camp in Badgam is one such notorious camps where the presence of captive women is a public knowledge. The abduction

of Kashmiri women and their abuse in captivity as forced sex objects, marks a bestial and demented turn in the army occupation of Kashmir. Many people spoke to us of this phenomenon, which is said to be common particularly in the border areas.

Laws and the Courts

“The police agencies and the administration appear to have thrown to the winds the rule of law. All sorts of illegalities are being committed by them, and even criminals and terrorists may be ashamed of them. . . . Hundreds of cases have been brought to my notice where the detenus are in illegal detention. Despite the strong direction of this court they are not being released. Hundreds of cases are pending in which the whereabouts of the detenus are not known. Scores of cases are pending in which the detenus have allegedly been done away with after arrest. . . . In short there is total breakdown of law and order machinery. I should not feel shy to say that even this court has been made helpless by the so-called law enforcing agencies. Nobody bothers to obey the orders of this court. Thousands of orders have been given. . . which have not even been responded to”.

Justice S M Rizvi

High Court of J & K at Srinagar

17 October 1994

This was not a political speech of the Honorable Judge. He put these words down in an order in writ petition No. 850/94 (Jalil Andrabi vs. State) seeking directions to disclose the names of all the detenus, the cases in which they have been detained, the period of detention, and the medical and other facilities available etc., in each interrogation centre, jail, sub-jail and police station in each district of J & K. The judge, actually, by this order, directed the constitution of a committee in each district consisting of the district judge, the district magistrate, the district superintendent of police and chief medical officer, to submit a report to the High Court within one week concerning the situation prevalent in the interrogation and detention centres. He also directed the state chief secretary and director general of police to order their subordinate officers to extend complete cooperation to these district committees that were to be set up under this order.

Needless to say, the implementation of this order never took off. Justice Rizvi was sought to be transferred to Karnataka, but on his protest he was shifted to

the Jammu Bench of the J & K High Court which would put the Kashmir valley out of the reach of the unpatriotic mischief of his judicial activism.

In fact, the breakdown in the judicial process is indicated by the fact that fifty per cent of sanctioned post of judicial officers from the level of Munsifs onwards are lying vacant in the state.

We were told by lawyers of the High Court at Srinagar that about 60% of the cause list of the Srinagar Bench of the J & K High Court on any day consists of writ petitions concerning detention or killing of persons by the armed forces. habeas corpus petitions for the release of detained persons. petitions challenging Public Safety Act detentions. petitions questioning TADA charges, petitions for enquiry into killings by the armed forces. petitions seeking enquiry into the inhuman conditions prevalent in the interrogation centres maintained by the armed forces. etc. The court at Srinagar has evidently no other role to play except to bring the law to the fore as a check on the arbitrariness of the Government of India's war in Kashmir. but the court has not really measured up to its job, according to most of the lawyers. The very few judges who try like Justice Rizvi are frustrated by unanswered notices and disobeyed directions. Other judges do not even try. In fact, the breakdown in the judicial process is indicated by the fact that fifty per cent of sanctioned post of judicial officers from the level of Munsifs onwards are lying vacant in the state.

PSA and TADA

The Jammu and Kashmir Public Safety Act (PSA) is a preventive detention law enacted in 1978. It has been used extensively in the last few years. It is much like the National Security Act applicable to the rest of India. It allows 2 years' detention without trial. Since creating enmity or hatred on grounds of region and community (among other things) is also a ground for detention under PSA, anyone who speaks about self-determination or in the name of Islam can be jailed for two years without trial in J & K. One Hurriyat leader, a former teacher of the Persian language, told us that when he was booked under PSA, one of the grounds mentioned against him was : 'you are a conversationalist'. anyone who speaks about self-determination or in the name of Islam can be jailed for two years without trial in J & K.

Lawyers complain that petitions challenging PSA detentions are never decided. Or

if they are at all decided. that is only after the period of detention is over. We were told that about 20000 persons have been detained till now under PSA. and while most of the detentions are challenged. hardly 400 to 500 have been decided. and that too after the period of detention is over.

TADA has also been extensively used in J & K. Apart from section 3 of TADA which covers violent activity aimed at overawing the State (which covers much of militant activity). section 4 makes any talk or writing about 'secession or cession' a crime punishable with life imprisonment. In other words to merely talk or write about self-determination. plebiscite etc., is punishable with a life sentence under TADA. Lawyers told us that about 15000 people have been held under TADA in the last 6 years. They said that PSA and TADA are used in tandem. A person is booked under TADA; at the end of one year, if the chargesheet is not filed, he is entitled to bail; then a PSA warrant is slapped on him and he goes to jail for two more years.

Lawyers told us that about 15000 people have been held under TADA in the last 6 years.

In TADA cases bail is in general not easy to obtain but it is not in principle impossible. But we were told by a TADA lawyer in Jammu (the designated court for the whole State is in Jammu) that bail is never given in TADA cases in J & K. Another senior TADA lawyer told us that, on the other hand, nobody has been convicted under TADA in the State till now. He said that the Government is not interested in prosecuting anyone. It is only interested in putting people in jail and keeping them there as long as possible. No attempt is made to prosecute anyone properly, though a lot of noise is continuously made about the rise of terrorist crime. He mentioned the examples of two illustrious TADA detenus; Yaşin Malik and Shabbir Ahmed Shah. They were arrested on very serious charges in 1989. But 6 years later, they are yet to be charge-sheeted. So far not even one conviction has taken place under TADA in J&K. Trials have began only in 10 to 11 cases. The team was told of other instances of how the law is perverted to put people out of circulation. Having been to Pakistan for arms training is a general charge under which any Muslim young man can be booked. There was mentioned to us a certain omnibus case. Crime No. 2/1990 filed by the Counter Insurgency Kashmir (CIK), an Anti-insurgency Intelligence outfit. In this FIR it was stated that an unspecified number of persons had gone to Pakistan for training and come back with arms. For 2 years after that whoever was arrested was booked under this Crime number. **Though TADA has lapsed, people are still being booked under it by simply showing them as involved in old TADA cases, taking advantage of the fact that the lapsing of TADA does**

not operate retrospectively. In fact, according to the Bar Association of Srinagar High Court atleast 400 arrest have been made under TADA after its expiry by the use of 'open FIRs.'

.... at least 400 arrests have been made under TADA after its expiry by the use of 'open FIRs.'

Jagmohan, during the few months that he was Governor of J & K in 1990, not only encouraged the extensive use of these laws, but also did his bit to make them even more oppressive in their operation. He amended PSA to provide for shifting of detenus outside the State. And he wound up the TADA designated court at Srinagar and transferred all TADA cases to Jammu. The lawyers, realising the hardship this would entail for TADA detenus who are mostly from the Kashmir region, struck work for 1 month and filed a writ petition challenging the order, but to no avail. 5 years later the designated court remains in Jammu.

There was a 1983 Criminal Law Amendment Act in J & K under which associations or political parties could be declared unlawful. There was provision in the act for the setting up of a Tribunal to which the ban would have to be referred. And the Tribunal's finding on whether there was sufficient cause for the ban in terms of the statute was final and binding. Jagmohan, as Governor, amended this law to remove the necessity of setting up a Tribunal. The executive's decision in the matter was thereafter to be final. **And then Jagmohan banned all the associations and parties that are at all politically relevant in the valley. The only lawful political associations in the valley are those whose relevance is very slight.**

Armed Forces (Special Powers) Act and the Disturbed Areas Act.

On 5 July, 1990, two acts which give extraordinary power to the armed forces and the police, to use force to kill, were brought into being in J & K. One is the Armed Forces (J & K) Special Powers Act (it came as an ordinance on 5 Jul and became an act in Sep), and the other is the J & K Disturbed Areas Act. The two acts give similar powers, the first to the armed forces and the second to the police. The powers concern search, seizure, arrest and use of force. Under the Armed Forces Act, force can be used, to the point of causing death, on any person carrying any weapon or 'things capable of being used as a weapon' or contravening an order prohibiting assembly of 5 or more persons. The Disturbed Areas Act gives, in addition to this power, also the power to open fire against any person 'who is indulging in any act which may

result in serious breach of public order.'

There are 54 army and paramilitary camps in the 6 districts of the Kashmir valley.

Such laws, with identical provisions and names, have been in used in other parts of India. They are violative of the right to life, for the power to open fire and kill cannot be bestowed so casually on the armed forces or the police, who are moreover covered by immunity from prosecution 'for anything done or purported to be done in the exercise of the powers under this law,' except with the permission of the Government which has appointed them.

One peculiarity of Kashmir (though not the whole of J & K) is that the local police are not trusted by the Central Government and the army. Governor Jagmohan's assertion that 'everybody in Kashmir is a militant' is literally the belief of the authorities. (The belief should have led the authorities to reflect why everybody in Kashmir has become a militant, and whether it makes any sense to describe such militancy as merely Pakistan-inspired, but it evidently has not). And hence the army uses its own interrogation centres. Every army or paramilitary camp is an interrogation centre. In addition, there are any number of schools, hostels and cinema halls occupied by the army, the BSF and CRPF, which are also used as interrogation centres.

All cinema halls in the valley and many schools, tourist centres, dak bungalows, rest houses under the occupation of the armed forces are also used as interrogation centres.

The Committee for Initiative on Kashmir, in its Oct 1993 report titled 'Kashmir war, Proxy war' has given a list of 54 army and paramilitary camps in the 6 districts of the Kashmir valley. Some of them are what are called JICs, that is joint interrogation centres used commonly by all the armed forces. And the report adds that 'all cinema halls in the valley' and many 'schools, tourist centres, dak bungalows, rest houses' under the occupation of the armed forces are also used as interrogation centres. Police stations in the valley are also, in principle, available to the armed forces to be used as interrogation centres, but the forces do not appear to use the police stations much, for the relations between them and the police are quite uncomfortable. But in truth,

in every search operation by the armed forces, some local house or shop or school is temporarily converted into an interrogation centre for people to be tortured and killed.

There is no authority in law for the existence of any such interrogation centre. Since the armed forces are supposed to be in J & K only to aid and assist the civil authorities, section 6 of the Armed Forces (J & K) Special Powers Act says that as soon as any person is taken into custody, or any property is seized, by the armed forces, the person or property should be handed over to the local police station. The armed forces never do this. They detain people, sometimes for months together, in their unlawful detention centres, and often hand over only the dead body to the local police.

The Armed Forces Act also gives the forces the power to destroy any dwelling that is suspected to be a hide-out of militants. It is this provision that works as the legal fiction behind the extensive arson perpetrated by the armed forces in J & K, the details of which we have seen earlier.

Assault on Human Rights Activists

"Documenting human rights abuses in a troubled land like Kashmir is, if not impossible, then not very easy either."

Kashmir Monitor

This is an understatement.

Working on documentation of human rights violations under conditions such as prevail in J & K is not at all easy. The violations are too frequent and too many. The freedom of movement is restricted. The physical terrain is difficult, and the political terrain is not very smooth either. And the threat of the armed forces' retaliation perpetually hangs in the air.

And yet a large number of courageous individuals and a few groups are working on the almost impossible job. Journalists, lawyers and doctors, who come into contact with human rights violations in the very course of their professional lives have extended their professional concern into human rights work. They have done extensive, though very much incomplete, documentation of the incidents and effects of atrocities by the armed forces.

The J & K Forum for Human Rights and Civil Liberties, headed by former chief justice Mian Jalaluddin, the J & K People's Basic Rights (protection) Committee,

headed by former chief justice Mufti Bahauddin Farooqi, the Human Rights Division of the Institute of Kashmir Studies, and Kashmir Monitor represented by High Court lawyer Parvez Imroze, are the organisations we came in contact with and took the help of.

□ All the human rights workers in the valley have expressed a feeling of uncertainty and fear. And atleast 3 persons have been killed in the valley for their involvement in human rights work. The first was Hriday Nath Wanchoo (65), who did much to document custodial deaths and disappearances in J & K. He filed many writ petitions in the High Court of Srinagar concerning such incidents. He was a retired government servant, active as a trade unionist. His human rights activism was regarded as a 'headache' by the armed forces for two reasons. One was the general reason that exposure of atrocities is never liked by the armed forces. The other is that Wanchoo, a Kashmiri Pandit, had not only stayed back in Kashmir after most of the Pandits left, but was actively campaigning for human rights, thereby giving the lie to the State's publicity that the problem in Kashmir was that of Muslim fundamentalism. On 5 December, 1992, Wanchoo who was going in an autorickshaw in Srinagar city, was stopped, pulled out and shot dead by unidentified gunmen. The government tried to pass it off as a killing by militants. But both HM and JKLF not only condemned the killing but also gave a call for bandh of the valley in protest. It is reliably believed that the BSF was behind Wanchoo's killing.

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□ The second to be killed was Dr Farooq Ahmed Ashai, Orthopaedic Surgeon at the Bone and Joint Hospital, Barzulla, Srinagar, and Head of the Department of Orthopaedics at the Srinagar Medical College. This hospital and its doctors have treated thousands of torture victims and have documented the nature of torture. Their effort has contributed substantially to the documentation of custodial violence in the Kashmir valley. Dr Ashai was very much involved in this work. He was shot dead by a CRPF picket late in the evening of 18 February, 1993. He was going in his car along with his wife Dr Farida and his daughter Rehana. At about 7.20 pm they crossed Rambagh bridge and turned right towards Barzulla. There were two CRPF bunkers on either side of the bridge, and a third bunker near the CRPF head-

quarters which they were approaching. Suddenly the CRPF jawans of the bunker they had crossed fired at the car and hit Dr Ashai. He was taken by his wife and daughter to the Bone and Joints Hospital, where he died by 8.30 pm

□ The third is Dr Abdul Ahad Guru, a Cardiac Surgeon at the Institute of Medical Sciences, in Soura, Srinagar. His murder is more controversial. He was travelling in a car in Srinagar on 31 March, 1993 when he was kidnapped by two unidentified gunmen. The next day, 1 April, 1993, his dead body was thrown near the hospital where he worked. Dr Guru was also an active human rights campaigner. He used to regularly give information about human rights abuses, especially torture leading to serious disability, to visiting human rights delegations and the press. He had been detained for four months under PSA in 1990. Who killed Dr Guru is a matter of doubt. It is possible that he was killed by pro-Pakistan militants for he was vocal proponent of Independence for Kashmir. But many in Kashmir insist that he was killed by the Indian armed forces.

This year, as Md Ashraf was preparing to meet the visiting UN High Commissioner for Human Rights, Mr Jose Ayala Lasso, he was arrested by the army.

□ In recent times the Government of India has been saying that it is following a policy of 'transparence' in J & K. This is highly exaggerated claim, for while some western diplomats, official delegations and the UN High Commissioner for Human Rights have been allowed to visit Kashmir, neither Amnesty International nor the UN Special Rapporteur on extra-judicial executions nor the Special Rapporteur on torture have been till now permitted to officially visit J & K to review the human rights situation there, though they have been requesting the Government of India for a long time. And more importantly, local human rights activists have been harrassed in many ways. A.G. Noorani has written in Frontline (2 June, 1995) that the Institute of Kashmir, Studies and J & K People's Basic Rights (Protection) committee have had their offices raided and material seized.

□ Much more severe ill-treatment has visited High Court Lawyer Md Ashraf and President of Baramulla Bar Association, Sheikh Md Ashraf. Md Ashraf, who was earlier a police prosecuting officer, had been dismissed from service after he led a policemen's agitation against the killing of the constable Riaz Ahmed by the army. Riaz Ahmed was taken into custody by the army on 21 April, 1993, and tortured to death the same day on suspicion that he was aiding militants. At that time there was

a major agitation of the police, and Md. Ashraf who was President of the policemen's association, was dismissed from service. He then set up practice as a High Court lawyer, and was documenting human rights violations on behalf of the High Court Bar Association. This year, as Md Ashraf was preparing to meet the visiting UN High Commissioner for Human Rights, Mr Jose Ayala Lasso, he was arrested (on 1 May 1995) by the army. After detention and torture for one month in various army interrogation centres, he has been jailed under PSA. His previous involvement in the police agitation has been mentioned as one of the grounds of his detention.

Sheikh Md Ashraf, President of Baramulla Bar Association, was also documenting human rights violations on behalf of his Bar. He took a delegation of his Bar to the UN High Commissioner for Human Rights, when the gentleman visited Baramulla, and narrated the features of army torture and custodial killings. The army later raided his house in Nasimbagh, Baramulla, on the night of 15-16 July and after sending everyone out searched the house and discovered a fire arm in the bathroom. While Ashraf was a man with what are called 'definite political views', even those who disagree with those views do not believe that he would carry fire arms. He has been in custody in an army interrogation centre from that day onwards. The District Bar Association has written to Mr Jose Ayala Lasso informing him that its President has been incarcerated for appearing before him and narrating incidents of army atrocities. Having said this, it must be added that certain militant groups are no more tolerant of criticism of their methods. As we shall see in the next chapter where we will look at the position of the Press, these militants have frequently used methods of terror to suppress criticism. It is doubtful that the human rights organisations in Kashmir can safely criticise such militants, assuming that they wish to, for human rights violation.

The handling of the Amarnath Yatra

We have had occasion to mention that the army rule in J & K is not merely a rule of the gun, but a rule of the Hindu chauvinist gun. Without any wish to exaggerate matters, it must nevertheless be said that there is a significant degree of communalisation of the army's perception of matters and therefore its behaviour. This is no doubt one of the contributory factors in making the behaviour of the armed forces particularly brutal in J & K.

The way the army's duty of protecting the Amarnath pilgrims threatened by the Harqat-ul-Ansar was converted into a campaign against the Kashmiri Muslims who were in no way party to the threat has been mentioned in the beginning of this report. As our visit to Kashmir coincided with the Yatra we had a ringside seat to the army's performance.

Many of the Kashmiris complained to us that for the last five years even the traditional Muharram and Milad-un-Nabi processions have not been allowed in Kashmir by the administration which was now making elaborate arrangements to protect the Amaranath Yatra.

Many of the Kashmiris complained to us that for the last five years even the traditional Muharram and Milad-un-Nabi processions have not been allowed in Kashmir by the administration which was now making elaborate arrangements to protect the Amaranath Yatra. Nevertheless nobody justified the ban on the Yatra as a just act of retaliation. And yet the army and many of the pilgrims behaved as if it was the Kashmiri Muslims who had banned the Yatra.

As soon as a convoy of the pilgrims crossed the Jawahar tunnel and entered the valley, the pilgrims and the armymen in the trucks and bunkers by the roadside would exchange victory signs and the pilgrims would shout 'Bharatmata Ki Jai'. Many of the yatris' vehicles carried the tricolor, which is unusual in a religious yatra. At Anantnag we were told that when the convoy passed through the villages of the district on the way to Pahalgam, the yatris made victory signs to the local people and shouted 'Bharat mein rehna hai to Ram naam kehna hai'. The army that was escorting them every inch did nothing to discourage them from behaving thus.

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Such provocative attitude of the pilgrims and the armed forces could only reinforce the belief of the Kashmiris that Indians do not wish to listen to what they are trying to say.

The Amarnath Yatra certainly consisted of many devotees whose purpose was purely religious. But it was evident to us that there were plenty of tough looking youth

who wanted to use the yatra to score a point against the Kashmiri Muslims. The sporting of the national flag and slogans hailing Bharat mata were part of this purpose. Even the cheer that they gave for Lord Siva. 'Hara Har Mahadev' has connotations of a war cry, especially when it is given with raised fists as an army-escorted pilgrims' bus rushes through a Kashmiri Muslim village. It is needless to add that such behaviour can only seem gratuitously insulting to a people who take pride in their spirit of religious tolerance.

Pahalgam is the last point upto which the Amarnath Pilgrims go in motor transport. That town, therefore, was full of the armed forces which regularly searched the houses of the predominantly Muslim population. And practically all the families vacated the houses and left the village. They were scared of the daily house to house search operations for such searches are known to frequently end in the killing of young men of the family. Moreover, they were also afraid that in case the militants attacked the yatris, as did happen later, the armed forces would retaliate upon the residents of Pahalgam, for such reprisal killings are common with the BSF, CRPF and the army.



Without comments

Protests

Protest demonstrations were held at Haihama, Kupwara district against the alleged rape of seven women by Indian Army. Reports reaching here say that army men entered the village Haihama in the dark hours and forcibly made their entry into some houses where seven women were allegedly raped. Three of the victims were identified as Hajra, Bakhtawar and Sarwah. The villagers took to streets in protest against this incident and demanded stern action against the culprits. *(June 14th, Kashmir Times) Kashmir Monitor, Srinagar, June 1994.*

75 year old Fazi of Lalgam, Chadura was one among the 10 women who were allegedly molested by the Jawans of Sikh-Regiment of Indian Army. The other women were identified as Fatima Masooda (18), Mugli (30), Salima 28, Raja (32), Sara (40), Zaina (35), and Hajra (40). The incident took place on 28th of June when militants hurled grenade on a patrolling party of Sikh 2-Regiment. In the retaliation the army men ran amuck and behaved in a very ruthless manner with every body who came there way.

The inhabitants of the areas held massive demonstrations against the army personnel and demanded action against the army personnel involved in the molestation of the women.

(June, 30, Daily Greater Kashmir) Kashmir Monitor, Srinagar, June 1994.

X MILITANCY AND THE PEOPLE

“Kashmiri people are passing through a difficult phase of trauma, and their brains are loaded with stress, strain and anxiety. . . Turmoil-related stress has taken a heavy toll of physical well-being also”.

Ahsan-ul-Haq

Paper read at a seminar in Srinagar

18 Jun 1994

It is customary to say that the people are 'caught between the armed forces and the militants.' In general, the people of Kashmir perhaps would not accept this description. Because, whatever criticism or dissatisfaction they may have about the militants, they view them as fighters in the cause of Azadi, which almost every Kashmiri cherishes, whereas the armed forces of India are seen as the enemy who is suppressing them.

But there are some situations where the acts of certain militant groups and the army reinforce each other and combine to deprive the people of normal outlets of social and cultural life and normal civic freedoms.

School buildings, for instance, have in many places been occupied by the army and the paramilitary and converted into camps. The militants therefore attack and destroy them. Or else the militants use school buildings as hideouts and the army torches them. The two combine to destroy the school system in the valley. *The Kashmir Times*, in a report dated 22 March, 1995, said that in the last five years about 300 school buildings have been gutted in the valley. The breakup is 106 primary schools, 65 middle schools, 72 high schools and 27 higher secondary schools.

Cinema halls do not exist in the valley. The militants who subscribe to Islamic orthodoxy put a ban on them and set on fire or blew up many cinema halls. The rest of the halls are occupied by the army and used as interrogation centres.

Kashmir had a vigorous rural theatre. It was disapproved by the Jamaat-i-Islami-trained teachers and others of the rural intelligensia. That did not, however, fully destroy the art form. But in the last 5 years all such cultural activity has come to an

end. Whether there is actual declaration of curfew or not, both the security forces and the militants prefer to have an undisturbed war-field after dark. Anyone who ventures out can easily become the victim of a stray bullet, a grenade attack or firing. The impact that such a complete stultification of the social and cultural life of the people can have on their long-term development can only be imagined.

The Press is one social institution that has been hemmed in by the threats of certain militants on one side and the armed forces on the other. Jagmohan, as Governor in early 1990, tried to muzzle the Press and censor the visual media completely. He would decide what news would go out from the valley. Foreign journalists were forced to leave the valley on 26 January, 1990, and on 16 April three Urdu dailies *Aftab*, *Azan* and *Al-Safa* were ordered to close down. Yusuf Jameel, the Srinagar reporter of BBC, was kidnapped by the armed forces for a day in June 1990, and later unidentified persons threw grenades at his office (on 18 February and again on 31 March 1992). As this report is being prepared there is news of a parcel bomb exploding in his office, injuring him and two other colleagues. On 23 April, 1991, Md Shaban Vakil, editor of *Al-Safa* was murdered. Government and militants accused each other of responsibility. *Al-Safa*, *Srinagar Times* and *Aftab* were threatened and forced to suspend publication for displeasing various militant groups by not publishing their statements, or for publishing news critical of them emanating from the authorities or rival groups.

This year, the whole of the Srinagar press was closed from July 10 to Aug 3. The origin of the problem was that the Ikhwan-ul-Muslimeen led by Kuka Parray, a militant faction that is generally believed to be patronised by the armed forces, was unhappy that the Press was not publishing its news. Militants belonging to this group kidnapped four journalists, Basheer Mansar, Kazi Mausur, and Shafat Mattoo (all three of *Greater Kashmir*) and Abdul Rashid (of *Nida-e-Mashriq*), from their offices in the Pratap Park in the heart of Srinagar city on the evening of 6 Jul at about 8.30 pm. They were taken in a van to the village Hajam in Baramulla district. The kidnapped journalists felt surprised that neither in Srinagar nor anywhere else, was the van stopped at any of the innumerable checkposts on the way. Later two of the journalists were sent back with a Press release of the group, which was to be fully published, or else the remaining two would be killed. The matter was duly published and the journalists were released. In protest against this, all the papers published from the valley closed down from 10 July and opened again only on 3 August.

State sponsored militant groups :

The Indian State has multiplied its counter insurgency operation in J&K attempting to replicate a Punjab in J&K: It has created/aided/abetted several vigilante groups, the biggest of which is the Ikhwan-ul-Muslim led by Kuka Parray. Parray, a former folk singer whose records are said to be still with the AIR, had his own reasons for hating the principal militant group in the valley, the Hizbul Mujahideen. He and his group target the HM as the main enemy and he has openly declared that he has no enmity with the armed forces of India. In Baramulla, the district where Kuka Parry's group is strongest, we were told that the militants of the group openly go around collecting forcible donations and otherwise threatening people, with the armed forces watching benignly.

Such groups can also be used by the armed forces to eliminate inconvenient persons (for instance, human rights activists) whom the army would find it a little embarrassing to directly eliminate.

This official patronage for a militant group which agrees to target the State's principal enemy is a very dangerous phenomenon. Its effects were seen in Punjab where similar tactics were tried. Such an officially patronised group can turn into an anarchic criminal gang and do a lot of harm to people. Such groups can also be used by the armed forces to eliminate inconvenient persons (for instance, human rights activists) whom the army would find it a little embarrassing to directly eliminate.

The killing of a forest official (DFO) Md Ashraf Dar of Kotarkhand, Kupwara district is a pointer in this direction. This man was widely believed to be an honest forest officer. He had complained to higher officials that some gun-wielding local persons were smuggling timber under the very eyes of the armed forces. There was a meeting between him, the Deputy Commissioner and Superintendent of Police of Kupwara and the Divisional Commissioner of Forests which discussed his complaints. A few days later, on 5 Apr. 1995, unidentified gunmen of the Kuka Parray group killed Md Ashraf Dar. There are atleast six other groups patronised by the Indian army.

Indian journalists have corroborated these observations. For example, *Business Standard* (3/9/95) notes that Ikhwan-ul-Muslimoon has State support. "The group's

expansion over the past few months, during which it has apparently been operating in tandem with the armed forces, has been impressive... That Ikhwan or Talaban operate in league with the Army is clear. A group of boys walked openly with their guns beside a couple of Army jawans, with their guns, through Lar last Wednesday." *Frontline* (3/11/95), in a detailed article on the topic, notes that "As we drive into the villages on the road to Anantnag, Kukka Parrey's name is on everybody's lips. There was a crackdown last night, and Kukka Parrey's men came and took away our boys.' is a refrain everywhere in the Valley... All this time, we have had Pakistan's Inter-Services Intelligence (ISI) pouring in money and ammunition to wage a proxy war in Kashmir, now we have decided to hit back the same way", says a senior Home Ministry official. It is a small price to pay for the country's integrity". (Also see Outlook, 18/10/95).

The Press has frequently reported atrocities by certain militants on the common people. Incidents of rape, extortion and physical elimination have been instanced. When we enquired about this, we were told that allegations of rape are exaggerated but some of the other incidents are happening.

The Pandits

"Sheikh Abdullah spoke of Naya Kashmir but it meant taking away the land of Pandits and taking away their jobs and giving them to Muslims".

A Panun Kashmir leader in Jammu

The Hindus of the Kashmir valley, better known as Kashmiri Pandits, are also among the victims of the rise of militancy in the valley. They were numerically never very significant but their importance in Kashmiri life was more than their population proportion. According to the 1981 census, the percentage of Pandits in the valley was 3.95, as against the Muslim percentage of 94.96%. Their proportion was never much higher than this, though there was no migration of Pandits from the valley until 1990. And yet, inspite of a small percentage, they had a substantial presence in the valley's white collar and teaching jobs, in addition to a sizeable landlord class. But there were also a number of rural peasant proprietors among them, who are the worst sufferers of the present migration.

We have seen the ambivalent attitude of the Pandits to the Kashmiri Nationalist movement and the negative attitude that many of them exhibited towards the social

and economic reforms of Sheikh Abdullah. They soon developed a strong feeling that they were being unjustly deprived of their legitimate due in the matter of jobs and other privileges, which they felt were being usurped by the Muslims. Though in fact a major effort was made by the Kashmiri leadership to bring the Muslims up from their position of social oppression, even after 40 years they have remained relatively backward.

For instance the 1981 population of J & K shows that Muslims were 64.19% and Hindus 32.24% in the whole State. But in the matter of jobs (as of 1987) among gazetted officers Muslims were only 41.71%, among class II and class III officers they were 56.24% (still less than their population proportion) and it was only among class IV staff that Muslims (65.52%) exceeded their population percentage. (The statistics are taken from India's Kashmir War, published by Committee for Initiative on Kashmir, 1990).

In spite of some resentment among the Pandits that their land and jobs were being taken away by Muslims, by and large the Kashmiri tradition of tolerance and peace helped to preserve social harmony. As we have said earlier there was no major communal riot at any time in Kashmir even during the worst period of communal riots in India. It was only in 1986 that there was some rioting in Anantnag including the destruction of some temples. Kashmiris attribute this to the machinations of the pro-Congress politicians in the valley. Moreover the efforts of peace makers were successful in restoring harmony and reassuring Hindus.

In any case the genuine apprehensions of the Pandits were used by the administration to encourage all of them to move out of the valley, to serve the propaganda purposes of the authorities.

It was in this atmosphere that militancy broke out in the valley 1989-90. As we have seen some prominent Hindus were killed, and specifically Islamic slogans were raised by some people in the massive processions for Azadi that took place in that period. The militants from that day to this have maintained there was no killing of Hindus as such, but only the targeted killing of Government agents and informers. Indeed the only incident in which persons were killed only because they were Hindus happened on 14 August, 1993, when 15 Hindu passengers in a Jammu bound bus were taken out and shot dead, but both HM and JKLF denounced the killing. Reckless bombing of public places killing innocent people has also happened only in Jammu but never in the Kashmir valley. But nevertheless it is true that some Pandits were

III KASHMIR AND KASHMIRIYAT

*“Among brothers of the same parents
why did you create a barrier?
Muslims and Hindus are one
When will God be kind to his servants?”*

Sheikh Nuruddin

The current armed militancy in the Kashmir valley is generally dated back to 1989. Mass agitation over deeply felt issues of regional, religious and cultural identity is not new to the valley, but the systematic use of arms is new. Indeed until 1989 the Kashmiris were regarded as timid and docile people. There were some incidents of bomb throwing and firing in 1988, and the first batch of armed militants is said to have reached the Kashmir valley that year. But it was the killing of the National Conference leader Mohammed Yusuf Halwai on 21 August, 1989, followed by that of BJP leader Tikalal Tiploo on 14 Sept and former District Judge Neelkanth Ganjoo on 4 November that marked the advent of armed militancy in the valley. But the underlying problem is itself recognised as having started with the accession of the Princely state of Jammu & Kashmir way back in 1947. The conditions under which the accession to India took place, the terms of accession, the conditional nature of the accession predicated on popular validation, the incorporation of article 370 guaranteeing special status or limited autonomy for J&K in the Indian constitution, the reference to the United Nations (UN) and the many UN resolutions concerning plebiscite, and all that followed thereafter constitutes the political background to the present situation.

We shall look into this background in the following chapters, but it must be realised that for the people of the Kashmir valley, the story goes back by almost another four hundred years.

Four centuries of subjugation

The Kashmir valley is the most densely populated and fertile part of the erstwhile princely state of Jammu and Kashmir. It is a culturally, ethnically and linguistically homogenous region, more than 90% Muslim in terms of religion. It has been

killed, causing uncertainty in the minds of the whole community. While sympathisers of the militants in the valley say that only 32 Pandits were killed, on the basis of the fact that the compensation provided by the Government for persons killed by militants was claimed only in the case of 32 Pandits, more neutral observers say that about 200 to 300 Pandits have been killed. But of course the militants have killed a much larger number of Muslims with the allegation that they are Government agents.

In any case the genuine apprehensions of the Pandits were used by the administration to encourage all of them to move out of the valley, to serve the propaganda purposes of the authorities. They were even told that the militancy would be crushed in a matter of weeks and they could all come back. The number of the emigrants is also a matter of dispute. While census statistics show that the population of Hindus in the valley could not have been more than 1.6 lakhs in 1990, it is usually said that about 2.5 lakh Pandits have migrated from the valley. However it is claimed that the census statistics of 1981 are not reliable.

The success of the Indian State's attempt to communalise the Kashmir situation is best indicated by the attitude of the Panun Kashmir activists among the Pandit refugees in Jammu. When the team asked them to indicate the point of rupture in their relationship with Kashmiri Muslims and Kashmiriyat, one activist of Panun Kashmir told us "the problem started with the birth of Prophet Mohammed".

On the other hand the JKLF has clearly stated that it wishes that the Pandits remain in the future set-up of Kashmir as equal citizens. It has appealed to them to return to the valley.

Among the Pandit emigres the relatively better off (mostly urban) segment has found jobs or business in Jammu and elsewhere. But about 10000 families of mostly rural Pandits are living in camps in Jammu. Their lives are quite miserable. Those of them who had Government jobs back in the valley get their salaries in the camps. Other families are paid upto Rs. 1500 per month and they also get some subsidised rice. No other refugees have been treated even this well in India. For instance nobody knows the whereabouts and the welfare of the 800 Muslim families which have also migrated from the valley in the last few years.

Yet the living conditions in Jammu camps are quite bad. In the Muthi camp which we visited, whole families have to live in one room tenements. They do not have proper provision of drinking water or medical and educational facilities. The Jammu middle class is not very hospitable in its attitude towards these refugees, and the Jammu administration is quite indifferent.

XI CONCLUSIONS

“Indians must know what is happening. The question is not whether Kashmir will remain in India, but what is the legacy that India leaves behind in Kashmir.”

Prof. A.Q. Rafiqi,

Historian, Kashmir University.

As of now the legacy has been a saga of duplicity, manipulation, violence and criminality. It is for us Indians to decide whether we will leave it at that.

The scale of violence is difficult to imagine. Our team found that Kashmir is the zone of probably the worst State atrocities and general repression in post-1947 India. Repression is being resorted to here not in order merely to suppress a small section of militants, but to suppress a broad popular movement which supports the militants. Hence virtually any Kashmiri comes under its sweep merely by virtue of being Kashmiri.

In Kashmir, the basic issue is the aspirations or desires of the people involved. This is a commonsense point that is frequently ignored. The solution of the problem, then, requires that the aspiration be met one way or the other. No excuse must be made of the fact that the aspiration has chosen to arm itself with guns, nor that foreigners are training those guns.

In the Kashmir valley, the relevant aspiration is the near-universal desire of the Kashmiris to be able to freely shape their own national destiny. This desire turns around a national identity that is described by the term Kashmiriyat. This identity has no doubt been affected by various pulls and pressures, particularly from the Islamic forces allied with Pakistan. However, as far as we could assess in our stay in Kashmir, this trend has not succeeded in overwhelming Kashmiri nationalism. The opinion expressed by A.G. Noorani (*Frontline*, June 2, 1995) that “it is the pro-independence, not pro-Pakistan, sentiment which enjoys by far the greater popular support” is representative of most observers’ opinion. (As we go to press, the results have been released of an opinion poll carried out by MODE on behalf of the Indian magazine OUTLOOK. This poll of 504 persons in the Kashmir valley concludes that 77 to 84 per cent said that there is no solution to the Kashmir problem within the Indian Constitution: 72 per cent favoured independence — as compared with 19 per cent who favoured merger with Pakistan; and 66 per cent “totally disapproved” of the increase in Islamic fundamentalism in the valley. While we do not wish to place reliance on opinion polls as a means of gauging public opinion, the findings

certainly confirm what we found when we met ordinary people in the valley).

Whatever its contours, it is this Kashmiri nationalism that has to be acknowledged and dealt with. It must be accepted as it is. Others can only try to influence it, not dictate terms to it. The political representatives of various trends in the Kashmiri struggle have put forward concrete proposals to begin the process of resolving the problem. They have found the All-Party Hurriyat Conference (APHC) consisting of 33 parties and organisations. In spite of the tremendous differences and tensions among them, they have agreed on certain fundamentals. Though they are all committed to the goal of self-determination and the implementation of the U.N. Resolutions on plebiscite, they have proposed to initiate the process of solution by tripartite negotiations between India, Pakistan and the people of J&K. The only precondition is that there should be no preconditions. That is to say, India should stop insisting that the people of J&K first of all accept the finality of their state's integration in India. Since the rejection of that finality is itself the actual problem, it makes no sense to insist on its acceptance and talk of a political solution as the Indian Government does.

It seems clear that when the Indian authorities talk of a political solution what they mean is not a solution of the problem as perceived by the people of J&K but something else. They mean only that the process of electoral politics must be renewed in the valley, so that an elected government will tackle the militancy. This is not what the Kashmiris mean when they talk of a political solution. **As long as the Government of India insists that the integration of J&K into India is final and cannot be treated even as a point of dispute, a genuine political process for solving the problem cannot be initiated.**

For historical reasons, the aspiration of self-determination finds its echo in much of the state, whether in the form of *azadi* from Indian rule or autonomy within J&K. In Pakistani J&K too this desire is a strong political trend, to which the Pakistani Government reacts no more hospitably than ours.

However J&K was an administrative unit created by the British for their own convenience and handed over to Gulab Singh. Under Dogra rule, it was not a homogenous national entity evolved over a period of time through a process of development of common language, culture, economic life, history and geography. There are distinct peoples hailing from the different regions of the state—the Kashmir valley, Jammu, Ladakh, Poonch, Baltistan and Pakistan-administered Kashmir. Self-determination would mean the right for all these peoples of the former J&K to fulfil their own social, economic, cultural and political aspirations.

The leaders of the Kashmiri struggle have committed themselves to giving a say to all regions and sections of J&K, including the pandits, in deciding the future of their state. Indeed, any solution today must meet and reconcile the broad perceptions of all sections of the state, and not just the people of the valley. This is a fact that the valley leadership recognises. Unfortunately it is the Indian authorities who refuse to

allow any say to anybody in deciding whether J&K is at all truly an 'inalienable' part of India.

We will end the report with an appeal to the Indian people, and some concrete demands addressed to the Government of India.

The appeal is that we Indians must recognise that the basic problem in J&K is neither a Hindu-Muslim conflict nor Indo-Pakistani rivalry but the aspiration of self-determination on the part of the people of J&K. We should not let other complexities that have accumulated in the course of the subcontinent's political history cloud this realisation. We should also acknowledge that this aspiration has long historical roots. We must accept that the instrument of accession and the U.N. Resolutions do commit the Indian State legally and morally to allowing the people of J&K to decide whether they wish to live in India. We must be prepared to look critically at the way in which J&K has been made an 'inalienable' part of India. We must realise that Pakistan's dishonourable intentions are merely being used by India as a cloak to cover its own equally dishonourable aims. It is only on this basis that we can oppose Pakistan's occupation of a part of J&K (against the wishes of the people there).

Sheikh Abdullah prefaces his autobiography with a quotation from the twelfth century Kashmiri historian Kalhana's Sanskrit tract, Rajatarangini: "Kashmir can be conquered by the power of the spirit, yes, but by the power of the sword, never." It is for us Indians to decide that we will not any longer allow the attempts of our rulers to conquer that cultured land with the "power of the sword."

And we place the following demands on the Government of India:

- 1. Accept that the accession of Jammu and Kashmir to India was not final, and that the people of J&k have a right to decide their own future. Recognise that this is the root of the problem in Jammu and Kashmir, and start unconditional dialogue to discover ways of solving the dispute in accordance with the aspirations of the people of J&K.**
- 2. Stop all acts of atrocities, killing, torture and arbitrary arrests by the armed forces in J&K forthwith. Withdraw the armed forces and paramilitary from Jammu and Kashmir.**
- 3. Institute an impartial enquiry by a commission consisting of civil liberties/ democratic rights activists, medical and legal experts and eminent persons into all allegations of violation of civil liberties and democratic rights by the armed forces in J&K. Punish the guilty according to the laws of the land.**
- 4. Compensate the victims of the armed forces adequately and immediately.**
- 5. Stop persecution of local human rights activists and lawyers who are helping the victims.**

6. Scrap the Public Security Act (PSA), the Armed Forces Special Powers Act, the Disturbed Areas Act and other laws which allow the armed forces to act with impunity.

7. Ensure that the basic needs and rights of displaced persons, whether Kashmiri pandits or Muslims, are looked after and safeguarded, wherever in India they may be. Ensure also that their interests are adequately taken into account in arriving at a final solution of the problem.

8. Do not impose elections on people of J&K. Elections are being sought to be imposed on the people of Kashmir as a precondition to any other political process. This amounts to an outright rejection of the people's demand for self-determination, by insisting that they first accept the frame work of the Indian Constitution. The Indian rulers intend to carry out this mockery of the Kashmiri people's demand for self-determination with massive military presence and repression.



Without comments

**An open letter to Prime Minister of India
from Mr. Mohammed Yasin Malik, Commander-in-Chief, JKLF**

..... It is criminal to keep your own people ignorant about the cost that an ordinary Indian Citizen is paying for the illegal and immoral occupation of J&K. In fact right from the early fifties, all the successive Indian Government with their colonial and imperialist attitude towards the people of J&K, have deliberately carried out a systematic disinformation campaign about the Kashmir problem.

From our side let it be very clear to you sir, that the 43 years old resistance movement is passing through a decisive stage and that there is no question of going back from this just struggle until and unless we achieve our goal of complete freedom from the shackles of slavery through the restoration of our usurped right of 'SELF DETERMINATION'. The peaceful methods adopted by the people of J&K during the last four decades have proved to be provided an exercise in futility, as the usurpers of our basic right of freedom have tried to consolidate their hold by foul and false means which has finally resulted in the firm and solid resolution of the will of the people of J&K to resist this occupation with an armed struggle against the colonial forces with vowed aim of either achieving complete freedom or in the alternative converting this heavenly valley into the graveyard of martyrs.

..... Mr. Prime Minister, we want peace and we shall welcome peace when it comes based on justice. We reject the peace which is offered to be made for the sake of law and order because the Kashmir problem is not a law and order problem, as it is well known to the Indian Politicians and intelligentsia nor does it owe its origin to any situation of fanatic origin. It was created by India through injustice done to the millions of simple, innocent and self respecting people of Jammu and Kashmir by refusing them the promised right of self-determination for choosing and shaping their destiny the way they like. It is high time, the general masses of India were told the truth about the problem, including the unbecoming and immoral role played by Indian leaders like Pt. Nehru for personal reasons in creating and perpetuating this problem.

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